

Fcldvidl

1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

-----x

3 VIDIVIXI, LLC and FRANCIS T.  
4 BRADLEY,

Plaintiffs,

New York, N.Y.

5 v.

15 Civ. 7364 (JGK)

6 MARK ANTHONY GRATTAN and MARK  
7 GRATTAN DESIGN & BUILD,

8 Defendants.

9 -----x

10 December 1, 2015  
11 9:13 a.m.

12 Before:

13 HON. JOHN G. KOELTL,

14 District Judge

15 APPEARANCES

16 GUZOV OFSINK LLC

Attorneys for Plaintiffs

17 BY: MATTHEW ADAM PEK

18 RAO LAW GROUP

Attorneys for Defendants

19 BY: SIDDARTHA RAO

BRIAN BOHM

Fcldvidl

(Mr. Pek not present)

THE CLERK: Vidivixi versus Grattan.

Counsel, please state who you are for the record.

MR. RAO: Good morning, your Honor. This is Sidartha Rao. Next to me is my colleague Brian Bohm and next to Brian is Mark Grattan. We're here representing Mark Grattan and Mark Grattan Design & Build defendants.

THE COURT: OK. Good morning.

(Pause)

(Time noted at 9:27 a.m., Mr. Pek present)

MR. PEK: My apologies, your Honor.

THE COURT: Could we get appearances from the plaintiff?

THE CLERK: May I have the appearances for the plaintiff?

MR. PEK: Matthew A. Pek, P-e-k, counsel for plaintiffs Vidivixi LLC and Francis Timothy Bradley.

Good morning, your Honor.

THE COURT: Good morning. The hearing was scheduled for 9 o'clock and it's now 28 after 9.

MR. PEK: I realize that, your Honor. And I would for what it's worth and I can't make up that lost time, we're happy to waive whatever time has been lost from our case in chief's time.

THE COURT: What is the explanation?

Fcldvidl

Opening - Mr. Pek

1 MR. PEK: The explanation is I made a mistake and  
2 confused the time of the original hearing which I was not  
3 present for, which was 9:30, for 9 a.m., and I tried to  
4 coordinate with two of my witnesses who had come from New  
5 Jersey and to let them know --

6 THE COURT: What?

7 MR. PEK: I have been trying to coordinate and as soon  
8 as I had realized it was 9 a.m., at the last minute I contacted  
9 the two witnesses coming from New Jersey to let them know to --  
10 that essentially we would be late. And it was an oversight on  
11 my part, your Honor. I don't have any excuse or meaningful  
12 justification, and I did my best by contacting the courtroom  
13 and chambers but, nevertheless, I was late and for that I  
14 apologize.

15 THE COURT: All right. I always tell lawyers not to  
16 apologize because apologies don't do any good. Apologies don't  
17 make briefs that are late timely. They don't make appearances  
18 timely. What I do ask lawyers is to assure me that it won't  
19 happen again. It won't happen again, will it?

20 MR. PEK: It will not happen again, your Honor. I can  
21 give you that assurance.

22 THE COURT: All right. We're here for a preliminary  
23 injunction hearing. I'll listen to openings that either party  
24 would like me to listen to. Plaintiff.

25 MR. PEK: Good morning, your Honor. May it please the

Fcldvidl

Opening - Mr. Pek

1 Court:

2 Today we are here on an evidentiary hearing in  
3 connection with plaintiffs' motion which was filed by order to  
4 show cause by which and through we commenced this action  
5 seeking immediate injunctive relief, as the Court is aware.  
6 What plaintiffs intend to prove and what I, as counsel, will  
7 intend to prove through live witness testimony and through  
8 offering a handful, not a very voluminous number of premarked  
9 exhibits, is simply that a preliminary injunction under the  
10 circumstances of this case in particular and particularly in  
11 light of documents that plaintiffs have obtained by way of  
12 several non-party subpoenas that plaintiffs have served -- as  
13 the Court is also likely aware, as they were the subject of two  
14 motions to compel -- that a preliminary injunction and  
15 plaintiffs respectfully submit that ultimately a permanent  
16 injunction is absolutely warranted based on the facts which we  
17 intend to show are not in dispute and cannot be refuted and  
18 simply do not comport with the defendants' opposition as filed  
19 in connection with our original motion.

20 The important thing for -- strike that. It is most  
21 important for myself, as plaintiffs' counsel, and for my  
22 client, Mr. Francis Timothy Bradley, who does go by Tim  
23 Bradley, the name by which I will be addressing him, that we  
24 focus today not as much as what has been the focus of the most  
25 recent proceedings, which have been somewhat of a full-scale

Fcldvidl

Opening - Mr. Pek

1 discovery effort on a very short-term expedited basis, and to  
2 focus instead on that very motion by which we commenced this  
3 action and the specific language in our order to show cause  
4 seeking preliminary injunctive relief.

5 Above all, what plaintiffs intend to show and  
6 demonstrate at this evidentiary hearing is that a preliminary  
7 injunction enjoining the defendant and any and all parties from  
8 any use of the Vidivixi mark, any colorable imitations thereof  
9 or any confusingly similar mark in any variant in connection  
10 with the sale or offer for sale of any furniture or furniture  
11 products or fabrication services is absolutely warranted given  
12 most of all the irrefutable I would respectfully submit and  
13 compelling instances of irreparable harm that my client --  
14 clients, rather, have suffered prior to our filing section and  
15 including up and through this hearing itself.

16 Absent the relief requested, my clients will continue  
17 to suffer irreparable harm, and seeing as how the mark is I  
18 would respectfully submit not disputed to be owned by any other  
19 entity than the de facto partnership between the parties, that  
20 the mark itself be properly preserved, the status quo properly  
21 preserved unless and until the defendants can show that a  
22 preliminary injunction is not warranted. We, of course, bear  
23 the burden of proof, and we respectfully submit that the  
24 evidence that we will put forward will satisfy the criteria for  
25 a preliminary injunction to be granted.

Fcldvidl

Opening - Mr. Rao

1 That is all.

2 THE COURT: All right. Defendants.

3 MR. RAO: Thank you, your Honor. May it please the  
4 Court:

5 As plaintiff mentioned, plaintiff bears the burden of  
6 proof in order to obtain a preliminary injunction. So the  
7 Court is well aware there are four factors at issue here.

8 Focusing for the time being on the second factor,  
9 because I think that's the easiest to understand on these  
10 facts, the irreparable harm issue. At the heart of this case  
11 is an allegation of sales of furniture allegedly made without  
12 plaintiff's knowledge and allegedly causing harm to plaintiff.  
13 Defendants respectfully submit that to the extent the issue is  
14 sales of furniture, that is pure money damage. Plaintiffs will  
15 be unable to show irreparable harm.

16 As to the trademark issues upon which this case was  
17 commenced, plaintiffs initially commenced this case claiming  
18 that Vidivixi, LLC was an owner of the trademark and that  
19 defendant Mark Grattan was a mere independent contractor of  
20 Mr. Bradley. The evidence has shown otherwise. Plaintiff has  
21 since filed an amended complaint, and I just heard plaintiff's  
22 counsel say it is undisputed that the mark, if it's owned, is  
23 owned by the de facto partnership. That de facto partnership  
24 is not a plaintiff in this action. In fact, there has been no  
25 showing and there will be no showing that either of the

Fcldvidl

Opening - Mr. Rao

1 plaintiffs have an exclusive ownership interest in the mark.

2 Trademark law, as this Court is well aware, requires  
3 competition of some sort of use in commerce. It would be  
4 somewhat bizarre -- and I await plaintiff's presentation of  
5 proof -- to demonstrate that Mr. Grattan, who is a business  
6 partner of Mr. Bradley under the Vidivixi partnership, in some  
7 way infringed Mr. Bradley's rights in the mark by identifying  
8 Vidivixi furniture as Vidivixi furniture.

9 Excuse me, your Honor.

10 As to plaintiffs' other claims, we've provided  
11 briefing outlining our legal arguments. I won't belabor the  
12 Court on those points. But briefly, the complaint and the  
13 affidavit of Mr. Bradley are internally inconsistent in that  
14 they on the one hand allege a partnership and on the other hand  
15 allege an independent contractor relationship. This is a fatal  
16 problem in the case.

17 As this Court is aware, based on the procedure and the  
18 posture that we're in today, this case really is failure to  
19 negotiate a partnership agreement. This is not a trademark  
20 case. It's been styled as a trademark case, but the  
21 unfortunate truth of the matter is that my client tried to  
22 enter into a partnership agreement with Mr. Bradley in order to  
23 share the profits of those very sales of which plaintiffs now  
24 complain. That attempt was rejected, and rather than engage in  
25 negotiation plaintiffs have pursued a litigious and, we

Fcldvidl

Opening - Mr. Rao

1 respectfully submit, unreasonable approach to simply finding a  
2 resolution to the partnership dispute.

3 Briefly as to the other factors, the equities here  
4 clearly favor my clients, Mark Grattan and Mark Grattan Design  
5 & Build. As the evidence -- documentary evidence and witness  
6 testimony will show, Mark Grattan was effectively running the  
7 business of Vidivixi, whether it be fabricating the furniture,  
8 marketing the pieces, networking with others in the design  
9 industry, handling press inquiries or in any way managing the  
10 operational aspects of the business.

11 The fact that Mark Grattan also feels his sales  
12 increase is merely consistent with the status quo as it had  
13 existed for approximately two years. There is nothing  
14 extraordinary about that. The only thing extraordinary in this  
15 case is plaintiffs' request that Mr. Grattan stop marketing,  
16 promoting and attempting to sell Vidivixi furniture, which in  
17 fact he's been doing for approximately two years. Clearly, an  
18 injunction would harm Mr. Grattan as a furniture seller and as  
19 a person who has put two years of work into Vidivixi, whereas  
20 denying the injunction does not harm plaintiffs since  
21 Mr. Grattan had offered and continues to offer to negotiate  
22 some sort of profit sharing agreement by which plaintiffs can  
23 be repaid the capital that they allege to have invested.

24 Finally, plaintiffs have shown no public interest for  
25 granting the injunction in this case. The Court is aware that



Fcldvidl

1 plaintiffs registered an LLC and I believe a week or  
2 approximately two weeks before commencing this case. That LLC  
3 did not exist during the time period when the furniture was  
4 created, the logos were designed, the website was designed, or  
5 any of the work was done relating to Vidivixi. There has been  
6 no showing and, to my knowledge, there is no evidence that at  
7 any time Mr. Bradley or Mr. Grattan assigned any rights to the  
8 LLC. So the LLC is simply a legal filing, at best, clearly  
9 postdates relevant events, and it clearly lacks any ownership  
10 interest absent any assignment in any of the intellectual  
11 property or tangible property of the business Vidivixi.

12 And, moreover, plaintiff's trademark filing, as we've  
13 already pointed out to the Court, is neither issued nor is it  
14 likely to issue since it was filed on behalf of a nonexistent  
15 entity, Francis T. Bradley, LLC as an intend-to-use mark. At  
16 best, plaintiff may allege some sort of common law trademark  
17 rights, but as I've pointed out and as plaintiffs' counsel has  
18 already pointed out, those would be owned by the de facto  
19 partnership between Mr. Grattan and Mr. Bradley. So there is  
20 no public interest in granting the injunction in this case. If  
21 anything, as the evidence shows, Mr. Grattan is the creative  
22 force behind the design of the furniture, the website, and the  
23 logos. Public interest would favor not granting an injunction  
24 to protect the rights of the creator in their creative works.

25 Thank you, your Honor.

Fcldvidl

Bradley - direct

1 THE COURT: All right. The plaintiffs can call their  
2 first witness.

3 MR. PEK: The plaintiffs call plaintiff Tim Bradley to  
4 the witness stand as the plaintiffs' first witness.

5 FRANCIS TIMOTHY BRADLEY,

6 the plaintiff herein,

7 having been duly sworn, testified as follows:

8 THE CLERK: You may be seated.

9 Please state your full name, spell your last name --  
10 or please state your full name for the record.

11 THE WITNESS: Francis Timothy Bradley.

12 THE CLERK: Thank you.

13 THE COURT: All right. Mr. Pek, you may examine.

14 DIRECT EXAMINATION

15 BY MR. PEK:

16 Q. Good morning, Mr. Bradley.

17 A. Good morning.

18 Q. If I may call you Tim for --

19 THE COURT: No.

20 MR. PEK: Understood.

21 THE COURT: No. We use last names.

22 MR. PEK: Understood, your Honor. Thank you.

23 BY MR. PEK:

24 Q. Mr. Bradley, would you inform the Court about the genesis  
25 of Vidivixi insofar as it concerns yourself and the defendant

Fcldvidl

Bradley - direct

1 Mark Grattan.

2 A. From the beginning or from --

3 Q. Yes, from the beginning.

4 A. So Vidivixi was an idea that was thought up during another  
5 project with an artist by the name of Mat Nichols. It revolved  
6 around sharing information between artists and designers and  
7 exercising that information to come to a solution that would be  
8 greater than being able to work alone and achieve those same  
9 results. So it was the start of a practice of multiple  
10 theories being applied to different forms of object making.

11 Q. Mr. Bradley, are you aware of the allegations set forth by  
12 the defendants in this action as set forth in their answer to  
13 plaintiffs' amended complaint?

14 A. Yes.

15 Q. Do you remember approximately the date, time and year, to  
16 the best of your recollection, when the -- rather, strike that,  
17 when yourself and Mr. Grattan decided to collaborate your  
18 efforts and to engage in business under the Vidivixi name?

19 A. Yes.

20 Q. And when was that, approximately?

21 A. Well, I guess the summer of 2013 I was giving Mark some  
22 cash to be able to use -- have access to some of the machines  
23 in the wood shop to finish a project that was shaped canvases  
24 that I fabricate for an artist and I needed two machines that  
25 he had in the wood shop. So I paid him some money so I could

Fcldvidl

Bradley - direct

1 have access. And at the time I signed like a, you know, an  
2 insurance waiver for Walter so I could use stuff in the shop.

3 And at that time the artist also commissioned a piece  
4 of furniture for his new house, so I asked Mark if he would  
5 like to collaborate on that. So we started doing that.

6 And roughly around the same time another artist was  
7 having a show in Brussels and offered or asked if I would be  
8 interested in partaking in the show and if I could contribute a  
9 piece of furniture with an abstraction. Basically before --  
10 you know, in 2013, I made a sculpture of a chair that was in a  
11 show at the Brant Foundation in Connecticut, and within  
12 discussion around that piece it was sort of made clear that I  
13 wanted to start exploring what Vidivixi would be, you know.

14 Q. Just for the purposes of maintaining a clear record, you  
15 referenced just now an individual by the name of Walter. Would  
16 you just --

17 A. Walter Goodman. He runs and manages the Sunset Park  
18 Woodworker wood shop space.

19 Q. And is that wood shop space owned or operated, rather, by  
20 Mr. Goodman?

21 A. Yes. Yeah.

22 Q. And is it your understanding that the wood shop -- or,  
23 rather, how Mr. Goodman runs it is to rent out space to  
24 woodworkers?

25 A. Correct, yeah.

Fcldvidl

Bradley - direct

1 MR. RAO: Your Honor, I apologize but I believe  
2 plaintiffs' witnesses are in the courtroom and would object to  
3 their being in the courtroom and present while Mr. Bradley  
4 testifies.

5 THE COURT: Yes. If there are witnesses who are going  
6 to testify, they should go to the witness room. Each side can  
7 have its party present but nonparty witnesses should wait in  
8 the witness room. It is in the hallway. And if it should be  
9 closed, I will have it opened. Thank you.

10 (Witnesses not present)

11 MR. PEK: I apologize for that, your Honor.

12 BY MR. PEK:

13 Q. Mr. Bradley, how would you describe the Vidivixi  
14 enterprise?

15 A. Well, it's supposed to stand for a new way of applying  
16 shared knowledge towards design and the development of design  
17 language, contemporary design language.

18 Q. And who would you identify as the contributors to, or,  
19 rather, to and of the Vidivixi name and what it produces?

20 A. Well, I mean, there have been a number of people that  
21 contribute in a number of different ways. You know, there is  
22 the dialogue that the end result resolves around, the dialogue.  
23 If it wasn't for the dialogue between the artist and designers,  
24 we wouldn't be able to reach sort of a third entity of result,  
25 like that's -- it kind of revolves around the idea that if

Fcldvidl

Bradley - direct

1 you're working with two or more minds, then you can kind of  
2 create, you know, if you are working with two people, then you  
3 can create a third, you know, umm, identity through the work.  
4 And I guess it comes down to that aspect of, you know,  
5 contribution, and then there's people that step in and help the  
6 best they can in every way and in what way they have to offer.  
7 So there is a lot of, you know, me doing favors so you can do  
8 me a favor type of thing going on.

9 But you have fabricators. We have designers that we  
10 collaborate with, and we have, you know, people like Tony that  
11 are there a hundred percent of the time in every area filling  
12 the void so we don't collapse and that we can actually succeed.  
13 That passion towards the cause that Vidivixi is fighting for is  
14 extremely necessary and valuable; it is one of the most  
15 valuable assets that make this possible.

16 Q. Can you, in your own words and as briefly I think as you  
17 are able, summarize what you regard as being your contributions  
18 to the business of Vidivixi?

19 A. Yes. I mean, Vidivixi is a vision that I had before I  
20 started Vidivixi, and Vidivixi is a project that I have been  
21 putting every aspect of my life towards to accomplish it.  
22 Raising money, building and designing the products, research  
23 and development, relevance -- research and relevance, you know,  
24 the what and why, you know, what is it that we're making and  
25 why is it relevant to even being made and, I mean, everything

Fcldvidl

Bradley - direct

1 else in between, managing the outsource fabrication, making  
2 sure everyone is paid, you know.

3 Q. Did you contribute any money to the Vidivixi business?

4 A. Yes.

5 Q. And just so we can narrow the timeframe here, about,  
6 looking backwards from this date, how old or how long, rather,  
7 has Vidivixi been engaged in business? And by that I mean  
8 seeking to make money and earn a profit.

9 A. I think like the end of 2013 into 2014 is when we started  
10 sort of partaking in, you know, the design scene.

11 Q. Do you have an approximate figure, or, rather, do you have  
12 in your head or in your bank statements or anywhere else, do  
13 you know how much you've actually contributed in terms of  
14 capital contributions, how much money you have invested?

15 MR. RAO: Objection. It is a compound question.

16 THE COURT: Overruled.

17 A. Roughly around like \$79,933 or something.

18 Q. And Vidivixi, as you've explained it, seems to be -- strike  
19 that.

20 What was it that began Vidivixi in 2013?

21 A. A conversation between two artists, Mat Nichols and myself,  
22 while we were designing a store on the Lower East Side called  
23 Community 54. We talked about working together and also  
24 working for other artists and apprenticing and just sort of the  
25 journey through developing yourself as an artist into a career

Fcldvidl

Bradley - direct

1 which every artist wants to be.

2 We both -- we spoke a lot about the academic structure  
3 and, you know, the art world and then also the sales, the  
4 scene, and how if you are involved in both sides of the art  
5 world, behind the scenes and in the forefront, you are revealed  
6 to a lot and you realize that a lot is missed. So we wanted to  
7 figure out a way to communicate for the end consumer to  
8 understand that there is a lot more about making something than  
9 just making it because you think it's cool or it looks nice or,  
10 you know, it is a cool idea. Just we're trying to really  
11 explore what happened in mid-century modernism and architecture  
12 and design and why the '80s wasn't able to really do much for  
13 it and why the '90s nothing happened and where do we stand now  
14 in art and design.

15 And the only place that we do stand is that if you can  
16 make a sale, you're an artist, and that's not really true  
17 anywhere else other than the art world, the market scene. And  
18 so it's sort of like a discussion among our peers about sharing  
19 dialogue, sharing information, and actually executing maybe a  
20 theory that would be applied to making a body work in sculpture  
21 that an artist that I, you know, rub shoulders with or maybe  
22 apprentice for but his theories are in my head and how can I  
23 exercise those theories without stepping on toes but actually  
24 further that -- further that in a different direction so it's  
25 still an object but it's a different functioning object now but



Fcldvidl

Bradley - direct

1 the same rules are applied and now there is a different outcome  
2 but it's more progressive and it's a new outcome.

3 Q. Who would you identify as the faces or the leaders or the  
4 managers or members that comprise or embody Vidivixi? Whose  
5 business have you understood it to be?

6 A. Well, I wanted it to be a partnership or a collaborative  
7 the way I had originally -- it was supposed to work when I was  
8 discussing it with Mat Nichols. Unfortunately, he moved out of  
9 the state. He had an injury and moved back to the West Coast.  
10 But there was always room to work together again in the future.  
11 I needed to get this up off the ground somewhat sustainable  
12 before I can really -- you know, I was taking the risks. They  
13 were -- I was feeling the risks, too. So it started to  
14 discourage me about involving anyone else, although we did.

15 But there is myself. There is Mark, who I, you know,  
16 invited in to collaborate with. There's Tony, Anthony Bunda  
17 and Mat LaBarbiera, the photographer. There is other friends  
18 that helped with photography, Dom Smith. I mean, Nate Lowman  
19 was someone who commissioned some of the pieces to be  
20 developed, and we couldn't have done that without him. He also  
21 is someone that supports my work a great deal. So without that  
22 support I wouldn't have been able to raise money and contribute  
23 it to Vidivixi. Aaron Aujla is another artist, Nate Lowman,  
24 Q. Mr. Bradley, thank you for that background. I would like  
25 to turn, shift gears, and hear a little bit about your history

Fcldvidl

Bradley - direct

1 with Mark Grattan, how you came to meet, when that was, and how  
2 it was that he became a part of the Vidivixi business or  
3 enterprise.

4 A. Well, I was doing a project and I needed some space. I met  
5 Mark at Pratt Institute when we were studying. So I've known  
6 him since then. We became friends at Pratt and I graduated in  
7 2005. Since 2005, we've, you know, seen each other the same  
8 places sometimes and keep in touch.

9 When I needed access to the wood shop, you know, I  
10 knew Mark needed work so I paid him to let me use the space.  
11 And then with that, you know, I invited him in to doing  
12 collaborative work together. We were working on the piece for  
13 Nate, the Jumping Jack Credenza, and then a small bookshelf  
14 that sort of had an abstraction attitude. It just had a rod  
15 going through the center sort of causing some dysfunction, and  
16 that was sent to Brussels for a show that Aaron Aujla had,  
17 which was an apartment that was fully furnished with slightly  
18 abstracted objects but were semifunctional and it was rented on  
19 Airbnb, as I showed you in the book.

20 Q. Is it safe to say you forged a friendship with Mr. Grattan  
21 while you were enrolled at Pratt with Mr. Grattan?

22 A. Yes. We were goods friends.

23 Q. And --

24 THE COURT: What was your area of concentration when  
25 you were at Pratt?

Fcldvidl

Bradley - direct

1 THE WITNESS: Sculpture and art history.

2 THE COURT: And after you got out of Pratt, what did  
3 you do in terms of your work in the art world? Were you an  
4 active designer, sculptor, woodworker? Just tell me about what  
5 you did.

6 THE WITNESS: I worked for a woman by the name of  
7 Michelle Maccarone. She has a gallery on Greenwich and a  
8 gallery in L.A. now. Yeah, I worked for her for about four  
9 years and it was my apprenticeship. I decided to work with her  
10 instead of going to grad school because she was going to give  
11 me an opportunity to work side-by-side with the best artists in  
12 the world that I could get connected to any sort of --

13 THE COURT: What was it that you did in your  
14 apprenticeship?

15 THE WITNESS: I would project manage the shows. I  
16 would rebuild the gallery. I would do anything from mop the  
17 floor, you know, to fix the toilet to do actual conceptual  
18 development to help further the well-being of the artists that  
19 I was working with, like their show and their work. So a lot  
20 of custom fabrication on the spot. Anything from concrete,  
21 steel, wood, stone, interior, you know, building structure  
22 walls, perfect for steam walls, lighting, a little bit of  
23 electrical, anything that I could basically do without having  
24 like, you know, getting caught without a license. Basically  
25 general contracting for her gallery, and then apprenticing with

Fcldvidl

Bradley - direct

1 the artists that I really wanted to know their work better. So  
2 Corey McCorkle is an architect and a sculptor that I  
3 apprenticed for.

4 THE COURT: So architecture and sculpture?

5 THE WITNESS: Yeah. I don't have a degree in  
6 architecture but I love architecture and I love structure.

7 THE COURT: OK. Thank you.

8 BY MR. PEK:

9 Q. Mr. Bradley, you mentioned you attended Pratt and met  
10 Mr. Grattan at Pratt Institute. Do you and Mr. Grattan have  
11 different or overlapping areas of expertise or a primary common  
12 trade, as you just explained to the Judge? Are you aware that  
13 in connection with this action Mr. Grattan has submitted a  
14 declaration describing you as a sculptor, for example?

15 A. Right. That's fine. I think a sculptor is a good word for  
16 someone who is well rounded in a -- you know, has a  
17 well-rounded and diverse portfolio of skill sets.

18 Q. What is your understanding Mr. Grattan's skill sets?

19 A. I understand that he is a woodworker.

20 Q. And it's safe to say that you respect him as a woodworker?

21 A. I would not have invited him to collaborate if I didn't  
22 respect him.

23 Q. So the first -- what was the first tangible manifestation  
24 or creation, physical product that bore the Vidivixi name?

25 A. I wouldn't --

Fcldvidl

Bradley - direct

1 Q. Who built that or who contributed to that?

2 A. I would say it would be the Dog in Beech, because it is in  
3 beechwood; it went to Brussels. It was made clear when Aaron  
4 invited me to submit a piece, I decided to say I would like to  
5 submit a piece under Vidivixi rather than Francis Bradley. And  
6 he was like, ah, OK, fine. And, umm, even though the piece  
7 that was submitted was like a recontextualized like version of  
8 a small scrap wood bookshelf in my apartment that he always  
9 wanted, you know, and so I sort of remade it with a little bit  
10 of a, you know, kind of a joke. And we made it in beech, but  
11 it's the exactly portions and everything of the shelf, the  
12 small shelf in my apartment.

13 Q. Did you enter into a partnership with Mr. Grattan?

14 A. Did I enter into a partnership? I invited him into a  
15 collaboration.

16 Q. And did that collaboration produce any artwork, any  
17 sculptures, furniture?

18 A. Yes.

19 Q. If you could -- if you would, I'd like to know about how  
20 the collaboration between yourself and your skill set and the  
21 defendant Mark Grattan and his skill set worked.

22 A. Well, we would meet at either my apartment or my  
23 girlfriend's apartment depending on, you know, what was easier  
24 for the day, and we would meet and talk. And I would bring my  
25 findings and we would discuss what we thought about certain

Fcldvidl

Bradley - direct

1 design solutions. And then a lot of it was, you know, me  
2 casing around talking about what I want to do, and Mark would  
3 be sitting on the laptop and sketch up a little bit roughly  
4 what we want to do on Google SketchUp. And then we would order  
5 supplies and start, you know, roughing -- like rough sketching  
6 the piece out because a lot of things would change. Our  
7 drawings were really just like gesture drawings and the final  
8 piece was the result, so everything would need to be taken back  
9 and drawings would be made accordingly. But -- sorry, go  
10 ahead.

11 Q. Did you see an opportunity when, if I understood your  
12 testimony earlier, you -- or strike that.

13 Following your graduation from Pratt, do you recall  
14 the next time or the first time, rather, that you had a  
15 conversation with Mr. Grattan, if you did, about Vidivixi?

16 A. No. I mean, I don't think I would have brought that up  
17 until we -- I asked him to be a part of it, really.

18 Q. And is it fair to say -- well, did you and Mr. Grattan  
19 enter into a written agreement of any sort, a partnership  
20 agreement, for example?

21 A. No.

22 Q. Any writing at all establishing what the business  
23 arrangement was, or was there a business arrangement or  
24 understanding?

25 A. Well, there was an understanding that, you know, do you

Fcldvidl

Bradley - direct

1 want to do this with me? This is something I'm going to do. I  
2 don't think he was in the best place at the time. It would  
3 have been something that was good for him. So the offer was on  
4 the table.

5 Things kind of got tricky because there wasn't really  
6 an equal partner there from the start, but, umm -- but I wanted  
7 it to potentially turn into something positive because, you  
8 know, this is something that I've wanted to do for a really  
9 long time. Whether it had a name or not, like I knew it was  
10 going to someday be something that I did.

11 And Mat Nichols and I were making furniture for Studio  
12 Sofield -- for a designer named Christine Kearny who worked for  
13 Studio Sofield at the time. They had a big contract in  
14 Shanghai doing the Harry Winston store that was to open in  
15 Shanghai. So when she came to Community 54, the store that Mat  
16 and I were designing, in the middle of the build out, she just  
17 walked past, you know, peeked in, and said, wait a second, you  
18 guys, could you make some stuff for me. So we talked to her  
19 and eventually we got the trickle down of the, you know,  
20 overload of the amount of work that she needed to get to  
21 Shanghai. So we made a bunch of, you know, tables and --

22 Q. "We" being?

23 A. Mat Nichols and I. That's how my relationship with  
24 Christine started. And that's how I realized like furniture is  
25 kind of not very difficult, let's -- maybe we can do this.

Fcldvidl

Bradley - direct

1 It's fun, you know, and --

2 Q. Was Mark Grattan the first person with whom you worked to  
3 actually begin a business venture under the name Vidivixi?

4 A. Yeah. He was -- yeah, ideally it would have been Mat but  
5 circumstances didn't --

6 Q. So you and Mark worked -- excuse me. You and Mr. Grattan  
7 worked as a team; is it fair to say that?

8 A. Yes, yeah.

9 Q. Have you ever, to the best of your recollection, or since  
10 2013 held yourself out -- yourself and Mr. Grattan as partners  
11 to vendors, clients, or the industry, anybody?

12 A. Yes.

13 Q. And did you all -- did the two of you work together to  
14 create furniture?

15 A. Yes.

16 Q. Just to be clear, do you have a sense of how many actual  
17 pieces of physical furniture the two of you ultimately worked  
18 together to create, fabricate and produce for show or sale or  
19 any commercial purpose?

20 A. About 14 -- 13/14.

21 THE COURT: Mr. Bradley, when did you begin to hold  
22 yourself out with Mark Grattan as partners? When did you begin  
23 to -- let's start there.

24 THE WITNESS: When did I decide that he was going to  
25 be my partner or when did I want to --



Fcldvidl

Bradley - direct

1 THE COURT: Well, you were asked did you and Mark  
2 Grattan hold yourself out as partners to the world and you said  
3 yes. And when did that start?

4 THE WITNESS: I think it started after the first expo  
5 that we took place in in Factory Floor, which was in November.  
6 It was in Industry City. The woman that was organizing it was  
7 walking through all of the wood shops and, you know, making  
8 spaces in Industry City and inviting people to partake so she  
9 could fill up the trade show. And I believe that we were  
10 working on a credenza that was commissioned by me when she  
11 walked into the booth and invited us.

12 THE COURT: About when was that?

13 THE WITNESS: That was in November, I believe.

14 THE COURT: Of?

15 THE WITNESS: 2013.

16 THE COURT: OK. Thank you.

17 BY MR. PEK:

18 Q. Were you and Mr. Grattan the primary forces behind Vidivixi  
19 when it began and as we know it today in its two-year history,  
20 more or less?

21 A. I mean, I wish, yeah, but there are other forces that  
22 actually made it more possible that kept it from failing when  
23 it was going to.

24 Q. Did you regard Mr. Grattan as your partner?

25 A. Of course. I defended him as my partner, as well, when

Fcldvidl

Bradley - direct

1 things weren't going well.

2 Q. Was there a time that things were going well?

3 A. There was a time where things could potentially turn into  
4 something good if we did the right thing but they never really  
5 got there.

6 Q. You just testified you did manage to create 14 pieces of  
7 furniture. Did the industry, whether the furniture industry or  
8 the art world, to the best of your recollection as you remember  
9 it, seem to take an interest in what you and Mr. Grattan had  
10 been doing?

11 A. Yes.

12 Q. Would you go so far as to say you were successful at the  
13 outset or have received any critical acclaim?

14 A. Yeah. We got some attention. We won the top pick at the  
15 Factory Floor. It is when organizers or sponsors of the event  
16 circle the fair and decide who they like the best. And so we  
17 got that at Factory Floor, and we also achieved another one at  
18 the AD Home Design Expo.

19 MR. RAO: Your Honor, these are our party witnesses  
20 and we are going to send them to the witness room, too.

21 THE COURT: Perhaps we should open up another room,  
22 too. The witnesses can wait out in the hallway, if you would,  
23 please. Thank you.

24 Mr. Bradley, keep your voice up. Thank you.

25 Go ahead.

Fcldvidl

Bradley - direct

1 BY MR. PEK:

2 Q. Mr. Bradley, you mentioned you contributed a good deal of  
3 money, a substantial deal of your personal finances, your  
4 money, into Vidivixi. Could you describe or characterize what  
5 it was that Mr. Grattan contributed? Was it something similar  
6 or was it something different?

7 A. Well, I mean, he was supposed to contribute his half of  
8 expenses but he wasn't capable of meeting those demands so I  
9 filled the void.

10 Q. Were you comfortable with that arrangement?

11 A. Never. Of course not. I mean, I'm trying to do something  
12 with someone, work together as partners, and it's -- I'm left  
13 with the hardest part. And it's funding and figuring out how  
14 to keep something alive, and it takes up a lot of time and it  
15 takes a lot of effort.

16 Q. Is that -- I don't want to cut you off but you mentioned  
17 the funding part. Are you aware that in connection with this  
18 action Mr. Grattan and other since-dismissed defendants are  
19 contractual parties with whom Vidivixi had entered into an  
20 agreement, Jean Lin and Jean Lin, LLC, known as "Good Colony"?

21 Did Mr. Grattan perform work that was of value to  
22 Vidivixi?

23 A. Yes. We all worked really hard on the furniture.

24 Q. "We all" being yourself and Mr. Grattan or --

25 A. Myself, Mr. Grattan, Tony Bunda, Kevin Walsh helped with

Fcldvidl

Bradley - direct

1 the 2014 work, you know. The outsourced fabrication, the  
2 fabricators, they worked hard for us because they believed in  
3 us and helped us the best possible way they could contribute.

4 Q. I'm sorry, I didn't complete my question earlier.

5 What I meant to ask was are you aware that Mr. Grattan  
6 and/or Ms. Lin, Ms. Jean Lin, had described you in connection  
7 with this action as, quote-unquote, the money guy or the money  
8 man?

9 A. Yeah, I'm aware of that.

10 Q. Is money all you contributed to Vidivixi?

11 A. No. Far from that.

12 Q. Did you expend any hard -- or did you do any manual labor  
13 or fabrication, heavy lifting? Can you just give me an idea  
14 what it was that you contributed apart from the money?

15 A. OK. Well, we would fabricate everything together that we  
16 were going to fabricate. Anything that wasn't outsourced, we  
17 would be working in the wood shop late at night. We would get  
18 there around anywhere from 8:30 to 9:30 so the wood shop would  
19 be empty. There would be no lines to wait on to use a machine.  
20 There is no interference. We had the place to ourselves. And  
21 we would work until sunrise sometimes. But usually around, you  
22 know, 8:30, 9, sometimes 10 'til, you know, 4/5 in the morning.

23 Q. Was there a particular formula or procedure by which each  
24 of these 14 pieces were made or that was in place? I imagine  
25 it begins with the design. I may be wrong. Can you just --

Fcldvidl

Bradley - direct

1 A. Well, we would decide that we were going to partake in  
2 something and it would give us an opportunity to showcase more  
3 and we also were eager to further develop pieces. So most of  
4 our fabricating would be done in sort of rushed batches of, you  
5 know, a one-month period of time working late every night for,  
6 you know, for four weeks or so until we finished, you know.  
7 And then we'd have the expo or whatever we were partaking in  
8 and then document the work and put it on the site and just --

9 Q. Was there a website, is that what you mean to say?

10 A. Yes.

11 Q. What was the domain name of that website?

12 A. Vidivixi.com.

13 Q. And do you have a specific recollection as to when you  
14 and/or Mr. Grattan or Vidivixi collectively, how was it that  
15 Vidivixi acquired this domain name?

16 A. I bought it and my cousin Kyle was working with us to get  
17 the site up as fast as possible. I think he quickly gave us  
18 just like a one-page type like coming soon, and it had the  
19 image of the bookshelf in Brussels, you know, the image from  
20 the show, and then we took it further from there. Kyle handled  
21 that in the beginning with Mark. Mark was overseeing that with  
22 Kyle.

23 Q. Did Mark do -- or is it safe to say that Mark did a  
24 substantial or a considerable amount of work on the website, as  
25 you recall?

Fcldvidl

Bradley - direct

1 A. I mean, yeah. I think we all worked hard on the website.  
2 Mostly Kyle. But it was a lot of just like talking and kind of  
3 sitting and waiting for the web designer guy to do his job,  
4 make sure that it's aesthetically up to par and functioning  
5 correctly, but just in communication and, you know, a few hours  
6 at my apartment or here and there, you know, or in my studio  
7 working with Kyle. And then eventually Kyle was too busy and I  
8 think we hired another guy that Mark knew. And he helped  
9 change a few things to get the site working like a little  
10 better, and we gave him the wardrobe closet as compensation for  
11 his time and effort so we paid him with that.

12 Q. You mentioned that you bought the domain name. Do you  
13 recall from whom you purchased the rights to this domain name?

14 A. GoDaddy.

15 Q. GoDaddy. And when you say you bought it, do you mean to  
16 say that you personally paid for it out of your personal  
17 pocket, not some other joint Vidivixi bank account or anything  
18 like that?

19 A. My personal, yeah, debit card or credit card.

20 Q. Are you aware of -- strike that.

21 Is there a registrant, to the best of your knowledge,  
22 listed on GoDaddy for Vidivixi.com?

23 A. I mean, I figured the registrant was Vidivixi or -- but I  
24 believe it's Mark Grattan.

25 Q. Is it safe to say that to the extent that Mark Grattan in

Fcldvidl

Bradley - direct

1 fact was the registrant, if that was the case, that was  
2 something that you authorized or permitted him to do, if not  
3 maybe --

4 A. I don't remember, it was so long ago. You know, it's a  
5 possibility.

6 Q. And since purchasing this domain name, who has paid for the  
7 maintenance of the domain name, and was there a Web host or an  
8 email server that came with that?

9 A. Yes. Yeah.

10 Q. Who paid for that?

11 A. I did.

12 Q. Is that website still active today?

13 A. Yes.

14 Q. Was there any interruption since you first hosted an actual  
15 site on the URL domain name?

16 A. Well, since -- yes. I mean, the site was taken down  
17 shortly after Mark and I had our dispute. It was taken down  
18 and re-- you know, put back up through another hosting. And,  
19 also, the emails were taken down and relaunched through another  
20 host. So as of now I have no access to any information coming  
21 into the website because I am blocked by him.

22 Q. You mentioned a dispute between yourself and Mr. Grattan.  
23 Are you referring to the dispute that effectively has brought  
24 us here today?

25 A. Yes. Yes.

Fcldvidl

Bradley - direct

1 Q. And can you describe in your own words how it was that you  
2 and Mr. Grattan found yourself in disagreement or at odds with  
3 one another, or what the dispute was about, in short?

4 A. Yeah. I think the dispute was about the future of  
5 Vidivixi, the short future of Vidivixi. Decisions to be made,  
6 you know, within the present few months.

7 Q. Just so that we have the chronology right here, when would  
8 you say this dispute --

9 A. It started after the AD show in 2015, in March.

10 Q. AD?

11 A. Architectural Digest Expo.

12 So we were in serious financial crisis, and I had just  
13 sacrificed every penny to my name to see it through the trade  
14 show. And, also, like some of the bills weren't going to start  
15 coming in, you know, like the union fees and things that have  
16 the credit card on them weren't going to start charging until  
17 that following week so I had only a few days to prepare an  
18 extra few thousand dollars or, you know, in union fees. So we  
19 needed to have a discussion about the state of Vidivixi. And I  
20 believe like around the beginning of the summer, end of spring,  
21 we had the discussion that we need to draw back, regroup and  
22 save money because I don't have any anymore and we have a lease  
23 with Jean that I need to pay every month and he was supposed to  
24 meet me halfway on the \$800-a-month fee. But I couldn't get  
25 that \$400 contribution to that and I never did once -- not even



Fcldvidl

Bradley - direct

1 offered. So it was getting to the point I realized I was being  
2 left alone with this. And when we had the discussion about  
3 drawing back, it didn't interest him whatsoever, but nor did  
4 the acknowledgment of the fact that if we do not draw back,  
5 there is no money, there is nothing, like we can't function  
6 correctly, and where do we go from there.

7 Q. As a business, you --

8 A. As a business. We have no revenue stream. We have zero  
9 equity.

10 Q. I would like to ask you about the revenue stream. You  
11 talked a little bit about the amount you personally invested.

12 And before we move on to money coming in, if there was  
13 any, would you say that you -- or is it fair to say in your  
14 estimation, based on your experience, that you in fact financed  
15 or contributed the lion's share, the majority, the entirety of  
16 the actual capital investment, the actual money? Or, put  
17 differently, if I may, did Mr. Grattan invest any money?

18 A. No. And, yes, I did invest 99.9 percent of all the money.  
19 Even money on the side to help him with his personal financial  
20 struggles so he could get up to speed and start to contribute.  
21 Sometimes if someone lends you a few thousand dollars just to  
22 get up on your feet and you continue to work, you can make --  
23 you really figure your situation out, and I was hoping that  
24 that would happen and he would get up to speed and be able to  
25 contribute in a 50/50 partnership, you know.

Fcldvidl

Bradley - direct

1 Q. So thank you for that.

2 Now, turning to sales. Are you familiar with  
3 Vidivixi's sales numbers? Were there sales? Was there a  
4 revenue stream?

5 A. No. It wasn't communicated to me. As far as I know, there  
6 were some talks and discussions and some interest but nothing  
7 was ever coming through.

8 Q. Did you ever receive any money from any sales -- were you  
9 ever approached by a potential buyer or client, somebody  
10 interested in purchasing your furniture or commissioning you  
11 for some fabrication job?

12 A. Yeah, of course. But, I mean, like -- but that's like a  
13 separate -- I mean, I do fabrication for people all the time.  
14 It has nothing do with Vidivixi.

15 Through Vidivixi, as like any sort of sales or  
16 projects or any sort of outcome, no, not that turned into  
17 money.

18 Q. But you described earlier that you all had -- yourself and  
19 Mr. Grattan had worked to create, if I understand correctly,  
20 furniture for trade shows, or expos, as you put it, such as the  
21 Architectural Digest I think you said, and was the purpose of  
22 showing your and Mr. Grattan's furniture or the Vidivixi  
23 furniture, what was the goal, the end goal there, of showcasing  
24 these pieces?

25 A. It was to create a relevance in the scene and start

Fcldvidl

Bradley - direct

1 creating a dialogue with people so we could actually figure out  
2 a good business plan and what's the right way to go. You know,  
3 we were sort of -- the idea was this was a very high-end luxury  
4 brand, but clearly we weren't, you know, offering anything that  
5 was incredibly high end yet other than the conceptual design,  
6 you know.

7 Q. You didn't have a catalog or anything like that?

8 A. No. Nothing was finished yet. We were still trying -- you  
9 know, we were scraping by. So to make a catalog it takes up a  
10 lot of time and effort and bringing people together.

11 So if I'm focused primarily on getting myself out of  
12 financial trouble, like taking any job I can get to pay the  
13 bills so I don't lose my studio and my apartment and we don't  
14 lose the wood shop and Vidivixi just doesn't die, you know,  
15 like I need to do these things and sort of -- I just need to  
16 delegate what is necessary at the time or else I can fall off  
17 track very easily, and then that's very devastating for me  
18 because one hiccup can -- I have a lot of overhead so, you  
19 know.

20 Q. Well, I'd like to actually ask you a few brief questions  
21 about that, but getting to the point of, I think, this hearing,  
22 Mr. Bradley, if I can back up, do you recall when you and I  
23 first met?

24 A. Yes.

25 Q. And could you just inform the Court very briefly how it is

Fcldvidl

Bradley - direct

1 we met?

2 A. I did some research on the computer, IP attorneys, and you  
3 seemed to be the most loyal and hardworking. So I called you  
4 with ten other people I called and you called me back first.  
5 You were the first person to call me back, and we spoke for  
6 two-and-a-half hours while you were pulled over on the side the  
7 of the LIE.

8 Q. And here we are.

9 Did you then represent -- excuse me. Did you then  
10 retain me as your counsel in connection with this Vidivixi  
11 matter?

12 A. Yes.

13 MR. RAO: Objection. Relevance.

14 THE COURT: Sustained.

15 BY MR. PEK:

16 Q. By the time -- at the time this action was commenced, had  
17 you ever seen a -- strike that.

18 By the time -- at the time you were looking for  
19 attorneys, or for counsel, rather, did you at that point ever  
20 see or create a Vidivixi invoice or purchase form or any kind  
21 of documentation geared towards generating revenue, proposal?

22 A. A consignment agreement, you know, when we would be with --  
23 yeah, just like consignment agreements and stuff like that.  
24 Nothing regarding actual final sales.

25 Q. Was there a dispute at some point --

Fcldvidl

Bradley - direct

1 THE COURT: Can I stop you for a moment?

2 So we're talking now about September of 2015, right?

3 THE WITNESS: Yes.

4 THE COURT: OK. Now, up until September of 2015, was  
5 Vidivixi a corporation? Did it file any sort of corporation  
6 papers or authorization to do business under the name Vidivixi?

7 THE WITNESS: Yes. I filed in, I think,  
8 August 27th or 28th of this year.

9 THE COURT: August of 2015?

10 THE WITNESS: Yes.

11 THE COURT: As what?

12 THE WITNESS: Why?

13 THE COURT: No. As what?

14 THE WITNESS: As Vidivixi, LLC.

15 THE COURT: Prior to Vidivixi, LLC, had Vidivixi filed  
16 any authorization to do business or anything like that under  
17 the name Vidivixi?

18 THE WITNESS: No. I purchased the trademark March of  
19 2015.

20 THE COURT: I'm sorry.

21 THE WITNESS: I had purchased the trademark in March  
22 of 2015, but there was no d/b/a or anything like that.

23 THE COURT: OK. Were there any -- you referred to  
24 paying \$800 a month for a lease.

25 THE WITNESS: Right. That was the Good Colony, the

Fcldvidl

Bradley - direct

1 showroom where we were presenting our work. It is a co-op so  
2 you paid \$800 a month and you have your five pieces you are  
3 allowed to showcase, and, yeah, there is a group of other  
4 designers.

5 THE COURT: And that lease was in the name of who?

6 THE WITNESS: Vidivixi and Mark Grattan, Francis  
7 Bradley.

8 THE COURT: So the three of you?

9 THE WITNESS: Yes.

10 THE COURT: OK.

11 THE WITNESS: I believe. I mean, it could have just  
12 been Vidivixi. I have to look. I would assume that both of  
13 our names would be on it, too.

14 THE COURT: Any other leases that you had for  
15 Vidivixi?

16 THE WITNESS: Yes. I have my studio space in  
17 Greenpoint, which is at --

18 THE COURT: Where?

19 THE WITNESS: In Greenpoint. It is 551 Stewart  
20 Avenue. That's sort of our -- Vidivixi's headquarters.

21 THE COURT: And the lease on that studio is in your  
22 name?

23 THE WITNESS: Yes.

24 THE COURT: Did Vidivixi have any employees?

25 THE WITNESS: Not like employees on paper but people

Fcldvidl

Bradley - direct

1 that consistently helped that I paid, yes.

2 THE COURT: OK. To help with --

3 THE WITNESS: Fabrication.

4 THE COURT: -- fabricating the furniture?

5 THE WITNESS: Photography.

6 THE COURT: OK. Those people you would pay  
7 personally?

8 THE WITNESS: Yes.

9 THE COURT: Did Vidivixi have any bank accounts?

10 THE WITNESS: None other than my personal two bank  
11 accounts, yes.

12 THE COURT: And your personal account was in your name  
13 rather than --

14 THE WITNESS: Yes.

15 THE COURT: OK. Thank you.

16 MR. PEK: Go ahead.

17 BY MR. PEK:

18 Q. If I can turn back to the dispute, as you described it, and  
19 which is still ongoing and which is why we are here, as I think  
20 you, yourself and the Court are aware.

21 Did this dispute come to some sort of a climax? Was  
22 there a tipping point that you can identify where, for example,  
23 you all decided you were done working with each other?

24 MR. RAO: Objection. Leading.

25 THE COURT: Sustained. Rephrase.

Fcldvidl

Bradley - direct

1 Did there come a time when you and Mr. Grattan had a  
2 dispute?

3 THE WITNESS: Yes.

4 THE COURT: What was the nature of the dispute?

5 THE WITNESS: Well, there are two disputes. The first  
6 dispute was in my apartment discussing the future of Vidivixi.  
7 And when I explained that we have no money and we need to draw  
8 back, I suggested that he do whatever is in his power to fix  
9 his financial situation and either get a job or do something  
10 extra that you can -- that can help you, you know, build up a  
11 savings to where we can actually function. And he mentioned  
12 that he didn't want to get a job and that Vidivixi was his job  
13 and his passion. And, you know, we had to have the sort of --  
14 this argument that Vidivixi is not your job, it's far away from  
15 being my job, as well. My job is to provide for myself and to  
16 provide for the projects that I get myself into, my personal  
17 ventures, that those are my problems and I need to -- if they  
18 turn into problems, they're mine. So I need to take care of  
19 them. So in order to go any further we need to save money and  
20 stop being as social and start being more inside and working  
21 all the time so we can actually do this right.

22 With that being said, over the next few weeks there  
23 was distance between us, and I just was sort of hoping for the  
24 best that he was getting himself together. And it is a lot of  
25 lack of communication over the summer. Eventually, it led to



Fcldvidl

Bradley - direct

1 him I think accidentally revealing that he had made a sale of  
2 nine chairs and he overordered the lumber from an out-of-state  
3 lumberyard that had a minimum order of like 2300 -- you had to  
4 order a certain amount of wood for them to deliver to New York.

5 At the time Mark wasn't really able to order lumber  
6 from a number of lumberyards in the Tri-State area, especially  
7 in the New York Metro Area, due to lack of payments, bounced  
8 checks and stuff like that. So largely that's what started  
9 contributing -- me contributing to paying every penny. It was  
10 because of he can't use his credit card. He can't be a part of  
11 it. He can't let Rosenzweig know that we're sending it to, you  
12 know, Mark Grattan at, you know, his address; we have to put  
13 Vidivixi. And it's just certain things we were dodging, you  
14 know, dodging his debt.

15 And so eventually he I think accidentally revealed  
16 that he had made a sale of nine chairs. And when I called him  
17 out on it, he made it clear that he felt that those nine chairs  
18 were his designs even though that they were nine chairs that we  
19 collaborated on for the Vidivixi line. He felt strongly that  
20 they were his designs and that he didn't have to contribute any  
21 of the profits to Vidivixi or myself.

22 Then I explained to him that we are seriously in the  
23 hole and there are no profits. You know, when you're trying to  
24 do something and you're negative, you know, upwards of \$80,000,  
25 there is no -- there is no profits. You know, like things need

Fcldvidl

Bradley - direct

1 to go -- the money needs to go where it needs to be -- it needs  
2 to be put in the right places and areas that need to be  
3 reimbursed and those areas that could, you know, sort of give  
4 us the ability to actually see some longevity if we do the  
5 right thing with income.

6 So I was upset about it and I said take the money, get  
7 the chairs done, get them delivered on time. This one's on  
8 you. I expect you to be up to speed after this. \$9,000.

9 So after that smoke kind of cleared, Mark was a little  
10 dodgy, hard to get ahold of. And there was a meeting in the  
11 wood shop about the building being purchased by a new company  
12 and that things were going to change so rent was going to  
13 increase and we had to figure something out. So Mark made it  
14 clear that he didn't want to be working in a wood shop anymore  
15 and didn't want to renew the lease. It made sense to me that  
16 we should be looking for another wood shop anyway because we  
17 can't afford that or just save up for the machines that I  
18 desperately need and then just moving them into my space in  
19 Greenpoint.

20 So I guess at some point while the wood shop space --  
21 we no longer have a space in the wood shop that we rent, I  
22 believe Mark was storing some of our stuff in a friend's bay.  
23 During this time, Walter, the owner of the wood shop, called me  
24 and said, Do you have the rent? I can't get in touch with  
25 Mark. And I said, you know, I'm in the same boat as you. I

Fcldvidl

Bradley - direct

1 haven't really been able to get ahold of Mark. What's the  
2 problem? And Walter said, Mark hasn't paid rent in a month and  
3 a half or two months or something like that. I'm very upset  
4 about it because he's bragging to Richard about how much money  
5 he's making and I know you guys are making money. So pay me.

6 So I had to tell Walter that I'm sorry, that this is  
7 the first time that I'm hearing of this. So that was sort of  
8 the concrete like, you know, now I know what's going on and I  
9 have to figure out how to stop it.

10 From there on it was just sort of, you know, trying to  
11 communicate. It wasn't going well. And then finally I had  
12 some objects that belonged to Nate, the artist that I used to  
13 make his pieces in the wood shop. So I made it clear to Mark  
14 that I need the jigs for the stretchers, the painting  
15 stretchers. They're very valuable; I can't lose them. So he  
16 agreed to meet me at the shop to let me grab some of my  
17 belongings. And he was in Dobbie's bay borrowing space and I  
18 collected my belongings, one of them being my laptop computer,  
19 which caused quite a stir for him because of the information  
20 that he left on it, I guess.

21 MR. PEK: If I may, your Honor, I would like to ask  
22 about that specific aspect of the dispute.

23 THE COURT: Go ahead.

24 BY MR. PEK:

25 Q. Did some part of this dispute take place in the wood shop?

Fcldvidl

Bradley - direct

1 A. Yes. Yeah.

2 Q. And did some part of the dispute concern a computer or a  
3 laptop?

4 A. Yes.

5 Q. And are you familiar with the specific laptop I'm referring  
6 to or I'm asking you about?

7 A. Yes.

8 Q. Did you share a laptop with Mr. Grattan?

9 A. Well, the laptop that he had was the Vidivixi laptop.  
10 That's where all the information for Vidivixi was on. His  
11 personal computer, something happened to it so where it broke  
12 or it crashed or whatever. He needed a laptop so he could  
13 function and do work.

14 So I said -- I gave him permission to use my laptop.  
15 At some point he crashed my laptop, the Vidivixi laptop. So I  
16 brought it to the Apple Store and I'm having a hard drive put  
17 in and then I handed it back to Mark. After that point he took  
18 the opportunity to completely make my laptop his laptop, you  
19 know.

20 Q. When you say your laptop, did you purchase this laptop?

21 A. Yes.

22 Q. Do you remember what brand of computer this laptop was?

23 A. It's like a MacBook.

24 Q. And insofar as your dispute, was there a dispute -- did  
25 your dispute with Mr. Grattan, as you've explained to the

Fcldvidl

Bradley - direct

1 Court, transpire or carry into the actual wood shop itself?

2 A. Can you repeat that? I'm sorry.

3 Q. Sure. I asked before and you had mentioned that there was  
4 a dispute in the wood shop, is that right?

5 A. Yes.

6 Q. And was there a time where the dispute centered on the  
7 laptop or the ownership or the possession of the laptop?

8 A. Yes. I think everything was under control. I was just --  
9 everything was -- I walked in, said hello to Mark. There were  
10 two Vidivixi pieces being touched up in the space. I asked why  
11 are these here. And he's like because I'm cleaning them up.  
12 And I said, Well, no one -- you didn't even tell me you're  
13 removing them out of the showroom, you know. There's no  
14 communication. And, well, I'm here to get my tools. So I  
15 started rounding up my tools. I saw my computer bag. I took  
16 it. And once he realized that I had my computer under my arm,  
17 that's when he sort of got a little aggressive and wanted his  
18 computer back.

19 Q. Where was this taking place again?

20 A. In the wood shop, yeah. So, you know, there were other  
21 people around. I'm not trying to cause a big scene. I just  
22 said, Don't do this. This is my property. You know that this  
23 is my property. And I walked in my car, locked it in my car,  
24 walked back upstairs, grabbed the remainder of my belongings  
25 and hit the road.

Fcldvidl

Bradley - direct

1 Q. Before you entered the wood shop on that day, had you had  
2 any prior communication with Mr. Grattan regarding your  
3 intentions to retrieve the laptop?

4 A. He knew that I was coming to retrieve my belongings.

5 Q. How did he know that?

6 A. He -- I sent him a text message requesting. He confirmed.  
7 And he gave me a timeframe that he would be there so I could  
8 show up.

9 Q. Do you recall submitting an affidavit in connection with  
10 this action?

11 A. Yes.

12 Q. Do you recall that -- do you recall certain exhibits -- or,  
13 excuse me, do you recall attaching certain exhibits, with my  
14 assistance, to your affidavit?

15 A. Yes.

16 Q. Do you have in your possession a proof of purchase of this  
17 laptop.

18 A. Right now? No. But I have the receipt, yes.

19 Q. OK. That's all I'm asking you.

20 How is it that you found out about the nine chairs?  
21 You told Judge Koeltl minutes ago about Mr. Grattan selling  
22 chairs or making money.

23 A. I think he called me in a sort of like a, oh, I messed up,  
24 I ordered too much wood but I'm trying to make it. Like, is  
25 this a bad thing or could we do something positive about this

Fcldvidl

Bradley - direct

1 wood order? And then while asking what the wood was for, he  
2 slipped and told me that it was for the nine chairs. And then,  
3 you know, I said, well, what's up with that? And then he  
4 said -- he made it clear that he felt that this was his now.  
5 And so I said to take it off the website if that's the way you  
6 feel. This isn't happening again, you know, and...

7 Q. OK. And did you ever steal anything from Mr. Grattan?

8 THE COURT: What did you mean by saying "I said to  
9 take it off the website?"

10 THE WITNESS: Oh, like if you feel so strongly that  
11 this is not a collaboration, that this is solely your design,  
12 then it shouldn't -- has no business being on this website and  
13 being a part of Vidivixi, and so take it -- you can have it  
14 back just if that's what you want to do.

15 THE COURT: These nine chairs were the same pattern?  
16 They were identical chairs, essentially?

17 THE WITNESS: Right. Yes.

18 THE COURT: OK.

19 BY MR. PEK:

20 Q. And, Mr. Bradley, if I understand you correctly,  
21 Mr. Grattan told you at some point that he had -- well, did you  
22 build these nine chairs? Did you take any part in the manual  
23 labor of fabricating these nine chairs?

24 A. No. I told him I wasn't going to, and I also made it clear  
25 that it's up to you to get these shipped to Connecticut or

Fcldvidl

Bradley - direct

1 whatever. And there were problems in the end. Tony almost had  
2 to --

3 Q. Well, before I get to the end, are you aware of a business  
4 enterprise that Mr. Grattan conducts on the side for his own  
5 personal living?

6 A. Yes.

7 Q. And do you know what it's called?

8 A. Mark Grattan Design & Build.

9 Q. Do you know or did you have any understanding as to whether  
10 those nine chairs were sold under that name or any name or the  
11 Vidivixi name?

12 A. I am not aware of that. I don't know. I'm assuming it was  
13 a Vidivixi sale because the inquiry of the sale I believe came  
14 at the AD show in 2015 but I'm...

15 Q. Have you ever stolen anything from Mark Grattan?

16 A. No.

17 THE COURT: Please keep your voice up.

18 THE WITNESS: No.

19 MR. PEK: Your Honor, I'd like to approach the witness  
20 with what has been premarked as Plaintiff's Exhibit 1. I am  
21 handing one to counsel.

22 (Pause)

23 Would the Court like a copy as well?

24 THE COURT: Yes. Do you have a copy for the witness?

25 MR. PEK: Yes, I do.



Fcldvidl

Bradley - direct

1 THE COURT: Could you also speed it up? You have been  
2 going for about an hour and a half.

3 MR. PEK: Yes.

4 (Discussion off the record)

5 (Recess)

6 THE COURT: Please be seated.

7 Mr. Bradley is on the stand. Mr. Fletcher.

8 THE CLERK: Mr. Bradley, you are reminded you are  
9 still under oath.

10 THE WITNESS: Yes.

11 THE COURT: You may proceed.

12 BY MR. PEK:

13 Q. Mr. Bradley, I would like to just move a little bit quicker  
14 and pick up where we left off.

15 You mentioned earlier that you retrieved the laptop?

16 A. Correct.

17 Q. What happened next?

18 A. I got back to my destination and I opened the laptop and I  
19 was exposed to a number of alarming things.

20 Q. So you opened the laptop and what were the alarming things?

21 A. I saw invoices. I saw correspondence --

22 Q. All I am asking about is the invoices. Invoices from a  
23 vendor that you all worked with? Invoices that you had seen or  
24 not seen before?

25 A. That I have not seen before, no mention of or, you know.

Fcldvidl

Bradley - direct

1 Q. And did those invoices have any entity listed as to who is  
2 billing or being billed?

3 A. Yes. The payments were to be made directly to Mark  
4 Grattan, and the address -- Vidivixi's address was often  
5 changed to Mark Grattan's personal home address or back to the  
6 Greenpoint address. It seemed like every invoice had its own  
7 individual identity on what is actually the truth of the  
8 matter.

9 Q. Did these invoices have the Vidivixi mark or the word  
10 "Vidivixi" anywhere?

11 A. Yes. Yes.

12 Q. Can you estimate how many, roughly, of these invoices you  
13 found on the computer?

14 A. An alarming amount, like over like I think around 20, I  
15 think, if I remember correctly.

16 Q. I have handed you what has been premarked as Plaintiffs'  
17 Exhibit 1 just moments ago. Do you recognize that document?

18 A. Yes.

19 Q. Have you seen it before?

20 A. Yeah. I heard about it first and then, yeah, I saw it  
21 after...

22 Q. How did you hear about it?

23 A. Through word of mouth.

24 Q. And what did you hear before we take a look at the  
25 document?

Fcldvidl

Bradley - direct

1 A. I heard that -- you know, someone gave me a heads up that  
2 there was an email being sent out that they received an email,  
3 and it was sort of advising people in the industry that I'm not  
4 to be trusted, I'm dangerous and on a rampage and stole stuff  
5 from Walter's wood shop.

6 Q. Do you recall on your behalf my serving some subpoenas in  
7 this case?

8 A. Yes.

9 Q. And do you recall receiving a copy of the document before  
10 you?

11 A. Yes.

12 Q. And do you recall who it was that sent it?

13 A. Walter Goodman sent it -- or Mark Grattan sent it to a  
14 number of people but it was Walter Goodman who sent it to us,  
15 yeah.

16 Q. Would you mind reading that email, and just if you could  
17 start by saying who is the sender and who is the recipient?

18 A. Well, the sender is -- well, here it is from Walter's  
19 iCloud and to us.

20 Q. To me?

21 A. Yes.

22 Q. And is Mr. Grattan's name anywhere on that invoice -- not  
23 invoice?

24 A. On this email.

25 Q. Yes.

Fcldvidl

Bradley - direct

1 A. No.

2 It says -- do you want me to read you the email?

3 Q. Before you do, do you recall the subpoena that I served on  
4 Mr. Goodman?

5 A. Yes.

6 Q. And is it your understanding that he produced this?

7 A. Yes.

8 THE COURT: Hold on. Hold on.

9 Is there an objection to the document?

10 MR. RAO: Your Honor, I was just conferring with my  
11 client. I believe he sent a similar email but this is  
12 obviously not an accurate copy. I believe that they are the  
13 same but I don't have the original in front of me so --

14 MR. PEK: Your Honor, if I may --

15 MR. RAO: I suppose there is a technical authenticity  
16 objection, but I don't want to be technical here and hold up a  
17 hearing that's already, you know, you've instructed us to speed  
18 it up. So what I can tell you is my client says he sent an  
19 email that to the best of his recollection looks like this one  
20 but I don't know more than that.

21 THE COURT: OK. There is no objection.

22 Plaintiff's Exhibit 1 received in evidence.

23 (Plaintiffs' Exhibit 1 received in evidence)

24 THE COURT: OK.

25 BY MR. PEK:

Fcldvidl

Bradley - direct

1 Q. Would you mind just reading that.

2 A. Good morning, guys. My former business partner Francis Tim  
3 Bradley is on a rampage. We had a significant falling out and  
4 he is unfortunately having difficulty accepting my decisions I  
5 have made regarding our relationship. He came into the shop  
6 yesterday, took a bunch of items, and left. A few of those  
7 items include my computer and external hard drive. He is  
8 currently a threat to me and to items being stored in the wood  
9 shop. Police have been informed --

10 THE COURT: In the shop?

11 A. In the shop. Police have been informed. If he attempts to  
12 enter the premises, please deny his access. He is not welcome.  
13 Sorry for the scare. Everything is most likely fine. XXX.

14 Q. Mr. Bradley, did you ever get contacted by the police?

15 A. No.

16 Q. And -- well, let's move on from that.

17 Have you ever made any money from Vidivixi -- from the  
18 business of Vidivixi?

19 A. No, never made any money from it, no.

20 Q. Received. Speaking in gross terms, not profit, just was  
21 any revenue earned, to your knowledge?

22 A. No. No.

23 THE COURT: I'm sorry. So you never received any  
24 money from any products sold by Vidivixi?

25 THE WITNESS: No. We never sold a piece, really, as

Fcldvidl

Bradley - direct

1 far as I know. There were commissioned pieces but they're, you  
2 know, paid for to be developed and then, you know, handed to  
3 the person afterwards. But you break even on those, really.

4 THE COURT: I'm not following you. Did you actually  
5 sell any pieces?

6 THE WITNESS: No, not finished product pieces, no.

7 THE COURT: OK.

8 BY MR. PEK:

9 Q. So I'll just wrap up here.

10 To the best of your knowledge, Vidivixi never made any  
11 sales -- has never made any sales, is that -- strike that.

12 Did Mark Grattan ever tell you about any potential  
13 sales, any leads?

14 A. Yes. Yeah.

15 Q. And did he ever tell you that any of those leads were  
16 consummated and a transaction completed or --

17 A. No, not other than slipping up with the nine chairs.

18 Q. Was it your understanding with Mr. Grattan that in the  
19 event there was an interest in Vidivixi that could lead to a  
20 revenue stream, that it was to be shared among you two?

21 A. Yes.

22 Q. Did you ever hear -- field any inquiries or solicitations  
23 or offers to purchase any of the Vidivixi items?

24 A. Coming in through me?

25 Q. Yes, from third parties.

Fcldvidl

Bradley - direct

1 A. Yes.

2 Q. Did you apprise Mark Grattan when that happened?

3 A. Of course.

4 Q. And was it your testimony today that Mark Grattan routinely  
5 apprised you of the same?

6 A. No. I mean, I think he was selective on what he told me  
7 that came his way, you know -- very selective.

8 Q. Do you remember receiving -- did you ever receive a  
9 partnership proposal of some nature from Mr. Grattan?

10 A. Yes.

11 Q. When around was that?

12 A. That was towards the end of October -- I mean, August.

13 Q. At that time when you received that, how did you receive  
14 it? Was it a letter, an email, or --

15 A. I received that as an email, yeah.

16 Q. At the time that you received that email, were you aware of  
17 any invoices, sales or --

18 A. No.

19 Q. -- potential sales?

20 A. No, umm.

21 THE COURT: I'm sorry?

22 A. No.

23 Q. And you've never seen -- witnessed, realized a dollar?

24 MR. RAO: Asked and answered. Objection.

25 MR. PEK: I rest with this witness, your Honor. Thank

Fcldvidl

Bradley - cross

1 you, Mr. Bradley.

2 THE COURT: All right. OK. Cross.

3 (To the witness) No. No. Have a seat.

4 All right. Mr. Rao, you may examine.

5 CROSS-EXAMINATION

6 BY MR. RAO:

7 Q. Good afternoon, Mr. Bradley. My name is Siddartha Rao.

8 You know I represent Mark Grattan. I'll try to be brief.

9 Mr. Bradley, can you state again for the record your  
10 profession?

11 A. I'm an artist.

12 Q. Have you ever designed furniture?

13 A. Yes.

14 Q. Which pieces of furniture?

15 A. I designed the pieces of furniture regarding Vidivixi, and  
16 I designed custom pieces of furniture in the past --

17 Q. What were those pieces of furniture from the past?

18 A. -- for my clients.

19 Well, there were three display tables for Harry  
20 Winston, for Studio Sofield, and then I've made other custom  
21 sort of installations in, you know, retail stores, private  
22 homes.

23 Q. Do you have any licenses to operate machinery related to  
24 woodworking or fabrication?

25 A. None that are needed.



Fcldvidl

Bradley - cross

1 Q. Did you have collaborators in the manufacture of the  
2 display tables that you just mentioned?

3 A. Which tables?

4 Q. The display tables.

5 A. For?

6 Q. For Harry Winston.

7 A. For Harry Winston, those are just straight up -- you know,  
8 you're fabricating a design that's already set in stone.

9 There's no -- it's just custom fabrication according to what  
10 they ask.

11 Q. I see. So to be --

12 A. They show us a table and they say can you make 20 of these  
13 tables, and we say yeah. Can you get them done by Tuesday? I  
14 say, I'll give you 'til Thursday.

15 Q. So to be clear, the designs are premade and then you  
16 fabricate based on --

17 A. For that particular client, yes.

18 Q. I understand. You mentioned the Vidivixi furniture.

19 A. Right.

20 Q. Can you identify those pieces of furniture?

21 A. Every -- you want me to go off and list every piece of  
22 furniture?

23 Q. Sure.

24 A. OK. There is there is the ISO Side Table. There is the  
25 Dakku Sleep Frame. There is the Buggy's Bar. There is the

Fcldvidl

Bradley - cross

1 Dining Table, the Vantage Chairs, Puff Panel Sofa, Puff Panel  
2 Chairs. There is the Three Piece Suit. There is the Fall 14  
3 Bookshelf, the Double Fold Desk. There is also two small  
4 dressers that have yet to have been decided on the final name  
5 but -- and, let's see. Could you read the list so far of what  
6 I have said so I don't repeat?

7 Q. Sure. I have an ISO Side Table, Summer Bed, Dakku Sleep  
8 Frame, Buggy's Bar, Dining Table, Vantage Chairs, Puff Sofa,  
9 Puff Chairs, Three Piece Suit, a bookshelf from fall of 2013.

10 A. And the Tom's Bed, Candy Bed. And there are some lights  
11 that were collaborated with Nate Lowman and Aaron Aujla.

12 Q. And is it your testimony that you worked on building these  
13 pieces of furniture, setting aside the lights?

14 A. I worked on the lights as well. I work on everything that  
15 I do.

16 Q. What did you do -- let's focus on the ISO Side Table. What  
17 did you do to help design the ISO Side Table?

18 A. Well, I came up with the exact concept of the ISO Side  
19 Table, that it should sit on a triangle and should be hovering  
20 off of a cleave and it should be a one-drawer box with a glass  
21 top. I helped fabricate the box and then we outsourced the  
22 steelwork.

23 Q. What tools did you use to fabricate?

24 A. Excuse me.

25 Q. What tools did you use to fabricate the Side Table?

Fcldvidl

Bradley - cross

1 A. The Side Table?

2 Q. Mm-hmm.

3 A. Basic tools. We start milling wood, which you walk over,  
4 you rough cut the wood down to the general size that you are  
5 going to be using for the piece. Then you take it to the  
6 joiner and you get one side flush. Then you take it to the  
7 plainer. Then you take it to the table saw. There is a  
8 process in milling wood, and then once you get it to the size  
9 and accuracy that you like it, you assemble it.

10 Q. Did you noble it?

11 A. Yes.

12 Q. Do you know the approximate dimensions of the Side Table?

13 A. About 8 inches deep -- 8 inches high, about 14 inches deep  
14 and about 18 inches wide off the top of my head. I don't have  
15 the data in front of me, but generally speaking that is roughly  
16 the proportions.

17 Q. Do you know what materials have been used on the Side  
18 Table?

19 A. Yes.

20 Q. Which materials were used?

21 A. Steel. There is leather. There is amber glass and there  
22 is ash and walnut. The ash is lacquered and the general finish  
23 is black.

24 Q. Where was this piece manufactured or fabricated?

25 A. Partially it was fabricated in the wood shop on Sunset

Fcldvidl

Bradley - cross

1 Park.

2 Q. And the rest of it?

3 A. Was outsourced steelwork.

4 Q. The Summer Bed, was that also fabricated in the wood shop?

5 A. Yes.

6 Q. What about the Dakku?

7 A. That is the same thing, the Dakku Summer Bed.

8 Q. Right. Just to keep this brief, the furniture, the  
9 remaining pieces that you mentioned, were those fabricated in  
10 the wood shop as well?

11 A. Briefly, just small parts of them.

12 Q. Which pieces would have been fabricated outside the wood  
13 shop?

14 A. Everything other than any piece that is solely made out of  
15 wood. Most of our pieces are -- the least amount of material  
16 is wood and some of them a lot of it is steel, glass and stone.  
17 So anything that doesn't involve solely wood obviously would be  
18 outsourced.

19 Q. Are the Vidivixi pieces -- so if we were to go through  
20 these materials, what is wood typically used for in the  
21 Vidivixi pieces? Like a frame or is it an accent or --

22 A. Whatever you want to -- I mean, it is usually a functional  
23 part or a decorative part. I mean, what is furniture -- what  
24 is wood used for is kind of a broad question. It can be a  
25 table surface. It can be a right angle to stop something from

Fcldvidl

Bradley - cross

1 sliding. It can be any sort of object that you want to make  
2 out of wood.

3 What's your question? I don't really understand the  
4 question.

5 Q. I am just trying to understand what portion of the work was  
6 done in the wood shop. Let me rephrase that question, then.

7 Let's take an example. The Summer Bed. How much of  
8 that would you say was fabricated in the wood shop?

9 A. 90 percent of it.

10 Q. OK. And what about the sweet frame?

11 A. The what?

12 Q. I have on my list ISO Side Table, Summer Bed, sweet frame.

13 A. Sleep frame.

14 Q. Oh, Sleep Frame, yeah.

15 A. Sleep Frame is the Summer Bed. The Dakku Sleep Frame is  
16 the Summer Bed.

17 Q. Oh, they are all the same?

18 A. Yeah.

19 Q. So that would be, you said, 90 percent was made in the wood  
20 shop?

21 A. It's 90 percent wood.

22 Q. Yes. What about Bugsy's Bar?

23 A. Bugsy's Bar was made in the wood shop.

24 Q. OK. And, roughly, what percentage of that would you say  
25 was made in the wood shop?

Fcldvidl

Bradley - cross

1 A. I think 90 percent of it. It is just wood and glass and  
2 leather.

3 Q. What about the dining table?

4 A. The dining table -- the glass dining table was Mark's  
5 contribution to Vidivixi so...

6 Q. When you say Mark's contribution, what do you mean by that?

7 A. He was eager to contribute something to the line. So I let  
8 him say, all right, yes, you can show the dining table in the  
9 line, like we'll add it to the line. It was in the Factory  
10 Floor show.

11 Q. Was the dining table made before the Vidivixi  
12 collaboration?

13 A. Yes.

14 Q. Got it. And the Vantage Chairs, were they primarily  
15 manufactured in the wood shop as well?

16 A. Yeah. They're wood and glass.

17 Q. Got it. What's your rough estimate of how much work would  
18 have been done in the wood shop?

19 A. I would say 40 percent of all the work would be done in the  
20 wood shop.

21 Q. What about with the Puff Sofa?

22 A. That's outsourced to the upholsters.

23 Q. And the Puff Chairs, is that similar?

24 A. Same.

25 Q. And the Three Piece Suit?

Fcldvidl

Bradley - cross

1 A. That's the steel fabricator, and then the rest of it is  
2 glass. It has a small walnut box in the middle and then it  
3 sits on stone, so 99 percent of that is outsourced fabrication.

4 Q. And the Fall 2013 Bookshelf?

5 A. 100 percent outsourced fabrication except there is a -- it  
6 is a modular piece so you can add a drawer box or a series of  
7 draw boxes but --

8 Q. Got it. What about the Double Fold?

9 A. The Double Fold was -- it is a 50/50. Half of it was made  
10 at a steel fabricator in Philadelphia and the other half was  
11 just assembled in the wood shop.

12 Q. And then the dressers?

13 A. The dressers we made in the wood shop.

14 Q. Got it. And you mentioned a canopy bed as well. Was that  
15 primarily made in the wood shop?

16 A. Yeah. Well, there was also some upholstery done and stuff  
17 like that, but, yeah, anything wood on it was done in the wood  
18 shop.

19 Q. How did you find the -- is "vendor" the right word to  
20 outsource these outsourced pieces to?

21 A. I have like a Rolodex full of different fabricators and  
22 vendors and specialty people. Some of them were local in the  
23 Sunset Industry City scene. So we would stay close. We used  
24 Al Atoli, who has his upholstery company and it's in the  
25 adjacent building to the wood shop. So we would walk across,

Fcldvidl

Bradley - cross

1 take an elevator and go upstairs.

2 Q. And that was for the steel fabricating?

3 A. That's for upholstery. We also used a guy name Jesus in  
4 Bushwick for upholstery.

5 Q. And for the steel you mentioned a Pennsylvania --

6 A. Yeah. There is a fabricator in Pennsylvania that Farrah  
7 Sit recommended us to. It didn't work out very well. It was  
8 not what we were looking for in accuracy.

9 There is also Juan, who is a friend of Mark, that  
10 helps us sometimes, and there's one or two other welders that  
11 help us as well.

12 Q. When you say "Juan," do you mean Juan Alfaro?

13 A. Yes.

14 Q. The Vidivixi pieces that we just went through, prior to  
15 fabrication, is it correct to say that somebody would have to  
16 create a technical drawing or design for them?

17 A. I mean, the technical drawings that we would create are  
18 very sort of basic. They're not very detailed. They're not  
19 factory quality. They're gestures towards -- you know, that's  
20 why being present and being involved while things are being  
21 made is incredibly important.

22 Q. What do you mean by not comparable to factory quality?

23 A. Well, if we were to sell a licensed -- if a company came in  
24 and they wanted to license our sofa and we handed them a Google  
25 SketchUp drawing, they just sort of would get a little -- they



Fcldvidl

Bradley - cross

1 would laugh at us. So they're for us. They're guidelines for  
2 us to go in, and then we go according to plan and we tweak. We  
3 make whatever decisions we want to make on the fly. When a  
4 piece is being built three-dimensionally in front of us, you  
5 can understand the proportions and understand the way things  
6 are working out much better than just seeing some technical  
7 drawing. In the end, that piece that's made needs to be  
8 submitted and technical drawings need to be done according to  
9 that final product if it's going to go further.

10 Q. I understand. So you're saying that a lot of design  
11 decisions are made while fabricating the piece?

12 A. On the fly. Like when we're making things, we come up with  
13 our concepts and we're -- you know, you would hit problems, you  
14 know. So that's why we work together, very closely together.

15 Q. And those types of decisions would be made in the wood shop  
16 or in the case of an outsourced vendor wherever the vendor is,  
17 is that correct?

18 A. Right. We're pretty prepared before we go to a vendor. I  
19 don't have any money to waste on -- you know, if a vendor  
20 doesn't do something up to par, I still have to pay him for his  
21 time.

22 Q. How much of the final product would you say changes between  
23 the initial sketching and the final fabrication?

24 A. Umm, not so much. We sort of -- we know roughly like what  
25 we're going to do. So it's just about -- it's a matter of like

Fcldvidl

Bradley - cross

1 just little touches.

2 Q. Do you use any other design programs besides Google  
3 SketchUp?

4 A. No, not really. I just started to explore a little bit in  
5 like 3D printing but that's just for the future. It is far  
6 away for us.

7 Q. With respect to any of these pieces, are there any in  
8 particular where the final product had a lot of variance from  
9 the initial sketches?

10 A. No, not necessarily. I think everything we kind of keep --  
11 I mean, the sketches are sort of irrelevant because we're --  
12 we, you know, I know what I'm doing and I know what isn't  
13 working and what's, you know, maybe some things work in a  
14 drawing but they just don't make sense in the physical  
15 three-dimensional world. Like aesthetics are very important in  
16 what we do. All my theory revolves around the aesthetics of  
17 these pieces. So that's what's being exercised the most here  
18 is this dialogue with contemporary, you know, object making and  
19 aesthetic understandings so...

20 Q. You mentioned the names of several people in connection  
21 with Vidivixi, and purely to refresh your recollection I am  
22 just going to state some of them: Mat Nichols, Dom Smith,  
23 Aaron Aujla?

24 A. Aujla.

25 Q. Aujla, and Nate Lowman.

Fcldvidl

Bradley - cross

1 A. Right.

2 Q. Starting with Dom Smith, what was his role in Vidivixi?

3 A. Dom Smith was a friend of Mark. He asked that -- well,  
4 there was a period of time where Mark had lent my studio space  
5 out to a fashion designer to do a production shoot.

6 Q. Who was that fashion designer?

7 A. That was Rio and he has Gypsy Sport. It wasn't really  
8 asked -- he didn't really ask my permission. He kind of threw  
9 me in a situation. I was kind of cornered, so I agreed. And  
10 there was supposed to be some sort of bartering of anything,  
11 what can you offer that we need that I can lend you my space.  
12 And they did a very, very, very large-scale, multiple green  
13 screen video production that took the entire day in my studio.  
14 If I was to lease my studio out to someone on that scale, I  
15 would have seen at least \$5,000 for that day in rental. It was  
16 a huge production. It did nothing for us. I didn't get a  
17 baseball hat to wear.

18 Dom was another attempt of working with Mark's  
19 friends. He is a photographer. There were some situations to  
20 where the photographer we were using wasn't really -- wasn't  
21 really getting along with Mark so I didn't -- he was a personal  
22 friend of mine and a personal, like, colleague of mine in a lot  
23 of ways, so I didn't want to subject him to -- you know, I  
24 would pay him but he would refuse the payment and so we went  
25 with Dom. Dom had the agreement that if he'll shoot some of

Fcldvidl

Bradley - cross

1 our photography, then I will lend him my studio for his own  
2 production shoots. And that took place twice, and then it  
3 started to turn out that Dom still wanted to be paid as well as  
4 use my studio space, and that's just not working out for us.  
5 So -- but, you know, he sent me a text message the other day  
6 saying sorry about what happened between Mark and I and he  
7 would really love to keep working together. So I'll keep using  
8 Dom in the future. I think he is a good photographer.

9 Q. To be clear, Dom's role was as a photographer as far as --

10 A. Dom is a photographer. He has taken a few photos. I think  
11 there is only like one or two photos on the site that Dom took  
12 but more recent stuff Dom shot.

13 Q. What about Aaron -- I can't even pronounce the last name?

14 A. Aaron Aujla.

15 Q. Aujla, yes.

16 A. Aaron Aujla is an artist. He's also someone that  
17 understands what I'm doing with Vidivixi. We have collaborated  
18 on a series of lighting together for the Vidivixi line. They  
19 were showcased at the AD show in 2015.

20 Q. Did Aaron Aujla have a role in designing or fabricating the  
21 furniture pieces?

22 A. No. This is another -- this is sort of like another  
23 direction. Furniture -- Vidivixi isn't just furniture. It's  
24 going to be more accessories. It's going to be a design house  
25 in a lot of ways, taking projects, what it originally set out

Fcldvidl

Bradley - cross

1 to do. It was never supposed to just be a furniture -- solely  
2 furniture line. That doesn't make a lot of sense.

3 Q. And when you say "going to be," do you mean that it is  
4 currently --

5 A. Well, we're currently exploring lighting, preparing to  
6 launch 12 items hopefully by fall 2016 and we're also embarking  
7 on sound. It is just a high-end sound quality bluetooth,  
8 working with a sound engineer in New Jersey on developing these  
9 pieces. I would like to sort of parallel that with sound  
10 studio interior design so it can be one sort of package. So  
11 that's what I'm focusing on right now as well other things.

12 Q. So Aaron Aujla was involved in the lighting aspect of this?

13 A. As well as Nate Lowman, so it is the three of us  
14 collaborating on the lighting for Vidivixi, the same way Mark  
15 and I were collaborating on furniture for Vidivixi.

16 Q. And is Mark involved in the lighting or sound aspects?

17 A. Nope.

18 Q. Have you spoken to Mark about the lighting or sound  
19 aspects?

20 A. Yes. He said he didn't really want to do it. So I invited  
21 him to partake in that but he opted out.

22 MR. RAO: I would like to show the witness what has  
23 been premarked as Defendant's Exhibit A. It is the affidavit  
24 that was previously filed.

25 (Pause)

Fcldvidl

Bradley - cross

1 I apologize. I am getting my copy as well.

2 Q. Mr. Bradley, do you recognize this document?

3 A. Yes.

4 Q. Can you describe this document?

5 A. It's my affidavit.

6 Q. I would like to turn your attention to paragraph 5 of this  
7 document. Could you read the text of paragraph 5, please, for  
8 the record?

9 THE COURT: Well, are you offering Defendant's Exhibit  
10 A?

11 MR. RAO: Yes, your Honor. I move it into evidence.

12 THE COURT: No objection. Defendant's Exhibit A  
13 received in evidence.

14 (Defendants' Exhibit A received in evidence)

15 A. Paragraph 5. "In short, due to my recent discovery (made  
16 less than two weeks ago) upon retrieving my laptop back from my  
17 former freelance independent contractor/woodworker, Mark  
18 Grattan, that he has not only been stealing from me and  
19 Vidivixi -- a company I put every cent I've had (not to mention  
20 three-plus years of blood, sweat and tears, just for  
21 starters) -- but engaging in unfair and deceptive business  
22 practices behind my back, diverting corporate opportunities  
23 away from Vidivixi and into his own pocket (despite his zero  
24 capital/financial contribution -- compared with my 100 percent  
25 investment in same)."

Fcldvidl

Bradley - cross

1 Q. Is it accurate to refer to Mark as a former freelance  
2 independent contractor of Vidivixi?

3 A. I think, yes, it's fair in a lot of ways because I paid him  
4 on a number of different, you know, occasions for his time and  
5 for his efforts. And it was very clear to him that if he  
6 wanted to -- if this partnership was to work out and become a  
7 formal partnership, then there couldn't be this sort of  
8 imbalance. And so, yes, I worded it in the best way that I  
9 felt Mark, you know, represents himself in the industry.

10 Q. When did you pay him?

11 A. Throughout 2014 and 2015 multiple cash payments. I'm sure  
12 I wrote a few checks in there. I paid his debts. I paid him  
13 for his time. I lent him money. I bought his cat food. I  
14 have given him taxi rides home from the wood shop late at  
15 night, and every which way you could possibly imagine I stepped  
16 in to support Mark to where he could maintain and keep his head  
17 above water.

18 Q. OK. I would like to turn your attention to paragraph 6.  
19 Could you read paragraph 6 for the record as well?

20 A. Mm-hmm. Worst of all, in an unconscionable strident and  
21 reckless manner, has been tarnishing the good will associated  
22 with the good Vidivixi name and trademark, and like the LLC, I  
23 am sole owner by misappropriating the Vidivixi name in a well  
24 documented scheme to unfairly compete with his own business  
25 partner (not to mention the business itself, which has already

Fcldvidl

Bradley - cross

1 suffered permanent and irreparable harm in the most impossible  
2 to measure). All of this -- all for his own personal profit  
3 and gain, while I on the other hand have poured my life's work,  
4 sweat and all of my savings into Vidivixi, but have yet to  
5 realize a single dime in revenue.

6 Q. Do you say in this paragraph that you refer to Mark Grattan  
7 as your business partner or, I suppose more precisely, you as  
8 his business partner?

9 A. Yes.

10 Q. What did you mean by referring to Mr. Grattan as your  
11 business partner?

12 A. I mean the same thing I've said over and over. I invited  
13 him into a collaboration and we were seeking out to be formal  
14 partners. We were trying to do this right, but there was only  
15 one of us trying to do it right. That's why we're here.

16 Q. Is it your testimony today that Mr. Grattan was an  
17 independent contractor or is it your testimony that Mr. Grattan  
18 was a business partner?

19 A. I think we amended my complaint and made that clear that he  
20 was the potential business partner.

21 MR. RAO: I move to strike as nonresponsive.

22 Q. Could you please answer --

23 THE COURT: No. Overruled.

24 Next question.

25 Q. I would like to turn your attention to -- just give me a



Fcldvidl

Bradley - cross

1 second -- paragraph 20 of the affidavit. Do you see the, so we  
2 don't have to read the whole paragraph into the record, the  
3 final part of that paragraph on page 6 of the affidavit at the  
4 top of the page?

5 A. Yes. Do you want me to read --

6 Q. Yes. Do you see where it states after the comma, "with the  
7 potential to one day become part of a design collaborative if  
8 and when I could afford to transform Vidivixi into a business"?

9 A. Yes.

10 Q. What did you mean by "one day become part of a design  
11 collaborative"?

12 A. That this isn't ever going to be possible if it doesn't --  
13 if we don't strive to do and make this business function  
14 correctly. So one day this could be a functioning business  
15 that revolves around a design collaborative. Exactly what I  
16 wrote.

17 Q. All right. Just give me one second here.

18 You mentioned earlier in your testimony a website for  
19 Vidivixi.

20 A. Right.

21 Q. Vidivixi.com. Are you familiar with the content on that  
22 website?

23 A. Yes.

24 Q. I would like to show defendant what's been premarked as --  
25 sorry, plaintiff what's been premarked as Defendants' Exhibits

Fcldvidl

Bradley - cross

1 R and S.

2 Do you have the exhibits?

3 A. No.

4 (Pause)

5 Q. I apologize.

6 Looking at Exhibit R, do you recognize that document?

7 A. Yes.

8 Q. Could you describe that document?

9 A. That is the about.

10 Q. The about for?

11 A. For the Vidivixi. It's the link on the about page for  
12 Vidivixi on the website.

13 Q. Could you read the description of the about?

14 A. Sure.

15 THE COURT: Hold on. You are offering Defendants  
16 Exhibits R and S?

17 MR. RAO: I'm sorry, your Honor. Yes. I'm offering  
18 Defendant's Exhibits R and S to move into evidence.

19 THE COURT: No objection?

20 MR. PEK: No objection.

21 THE COURT: Defendant's Exhibits R and S received in  
22 evidence.

23 (Defendants' Exhibits R and S received in evidence)

24 THE WITNESS: Shall I read it?

25 MR. RAO: Yes, please.

Fcldvidl

Bradley - cross

1 THE COURT: Yes.

2 THE WITNESS: A furniture designer merges with a  
3 contemporary artist and sculptor forming Vidivixi, a design  
4 collaborative that responds to the debates and conversations  
5 among their peers and mentors. Artists and designer alike,  
6 through three-dimensional object making, together they create  
7 an energetic collective thinking process, uncompromised  
8 quality, and truly innovative.

9 BY MR. RAO:

10 Q. Who is the furniture designer referred to in this about  
11 section?

12 A. Well, we're referring to ourselves as what we do. So Mark,  
13 yeah.

14 Q. And then the contemporary artist and sculptor?

15 A. Myself.

16 Q. And then the section that says Vidivixi, a design  
17 collaborative, is a design collaborative a description for  
18 Vidivixi?

19 A. Yeah. It is a broad description but yes.

20 Q. I would like to turn your attention to what's been  
21 premarked as Defendant's Exhibit S.

22 Do you recognize this document?

23 A. Yep.

24 Q. Could you describe this document?

25 A. It is the contacts link page.

Fcldvidl

Bradley - cross

1 Q. And do you see where it states "Principals"?

2 A. Yes.

3 Q. Who are the names listed on this?

4 A. Mark Grattan and Francis Bradley.

5 Q. Is it accurate to state that Vidivixi was a design  
6 collaborative of which you and Mark Grattan were principals?

7 A. Yeah. We were business partners, yeah.

8 Q. In your affidavit you reference several times an LLC.

9 Could you state for the record what LLC you are referring to?

10 A. The limited liability company.

11 Q. What's the name of that limited liability company?

12 A. Vidivixi.

13 Q. And when was that formed?

14 A. In late August.

15 Q. Do you recall attaching as an exhibit to your affidavit a  
16 company operating agreement for that company -- for that LLC?

17 A. I don't remember but maybe.

18 MR. RAO: OK. I would like to show the witness what's  
19 been premarked as Defendant's Exhibit C and offer the same into  
20 evidence, your Honor.

21 (Pause)

22 THE COURT: OK. No objection. Defendants' Exhibit C  
23 received in evidence.

24 (Defendants' Exhibit C received in evidence)

25 THE COURT: My copy has no pages 1 and 2. It begins

Fcldvidl

Bradley - cross

1 at page 3 with a cover page.

2 (Pause)

3 MR. RAO: Your Honor, my copy also begins at page 3.  
4 Let me try and figure out why that is. Just give me a moment.

5 (Pause)

6 THE COURT: OK. The document in the file contains a  
7 page 2, so.

8 MR. RAO: Apologies, your Honor.

9 THE COURT: OK.

10 BY MR. RAO:

11 Q. Mr. Bradley, looking at this document today, does this  
12 refresh your recollection at all as to what this document is?

13 I think you just said you didn't recall attaching it.

14 MR. RAO: Sorry, your Honor.

15 A. Yes. This is the basic breakdown of a limited liability  
16 corporation agreement.

17 Q. And that's for Vidivixi LLC, is that correct?

18 (Pause)

19 Did you sign this operating agreement?

20 A. I don't remember.

21 Q. Let me ask a slightly different question. Do you recall  
22 ever signing an operating agreement of any kind for Vidivixi,  
23 LLC?

24 MR. PEK: Objection, your Honor. Relevance.

25 THE COURT: Overruled.

Fcldvidl

Bradley - cross

1 A. Possibly, but I don't remember.

2 Q. And do you recall submitting this particular document as an  
3 exhibit to your affidavit?

4 A. No. That's why I said I don't recall the first time you  
5 asked.

6 Q. But it wouldn't surprise you or you wouldn't find it  
7 strange to know that you had in fact submitted this document as  
8 part --

9 THE COURT: Speculation. Sustained.

10 MR. RAO: Withdrawn.

11 Q. Turning to the first page of this --

12 THE COURT: It doesn't have to be withdrawn. I  
13 sustained the objection so next question.

14 MR. RAO: Sorry, your Honor.

15 Q. On the first page of this document, do you see where it  
16 states, "Form single member, member-managed LLC agreement"?

17 A. Yes.

18 Q. If I could draw your attention to the pages towards the  
19 back, the beginning of the footnotes.

20 A. What page?

21 Q. My document lacks page numbers. It is the page after the  
22 signature page bearing your name.

23 A. What would you like me to acknowledge here?

24 Q. Do you see the bold and capitalized letters in the second  
25 paragraph stating, "Be advised that the laws of each state can

Fcldvidl

Bradley - cross

1 vary significantly"?

2 A. Yes. "The company/corporation does not guarantee the  
3 accuracy or currency of these end notes. Questions about any  
4 of these end notes or your state specific laws should be  
5 referred to an attorney and/or accountant in your state to  
6 confirm their accuracy and currency."

7 Q. Do you recall where you got this document from?

8 A. Probably The Company Corporation.

9 Q. What do you mean by "The Company Corporation"?

10 A. The Company Corporation is the company that I licensed my  
11 LLC under, like I did it online.

12 Q. I understand.

13 A. So, The Company Corporation.

14 Q. I think in your testimony and as stated in your affidavit  
15 that your ownership of the LLC is related to your ownership to  
16 the furniture that is at issue in this matter?

17 A. I mean, Vidivixi owns the furniture.

18 Q. When you say Vidivixi, what do you mean?

19 A. I mean Vidivixi.

20 Q. Do you mean -- are you referring to the LLC?

21 A. Yes.

22 Q. So your testimony is that the LLC that you formed in late  
23 August owns the furniture?

24 A. Of course.

25 THE COURT: Why do you say that?

Fcldvidl

Bradley - cross

1 THE WITNESS: Well, because --

2 THE COURT: Hold on. Are we talking about specific  
3 pieces of furniture that had been created before you created  
4 the LLC?

5 THE WITNESS: Yes. But they were Vidivixi pieces, you  
6 know. The collaboration, the outcome of that, it's for  
7 Vidivixi. So, you know, it belongs -- in this case, I mean,  
8 there was some imbalance in how these pieces were created so  
9 it's up for dispute. I would like nothing more than the  
10 furniture to come back home so it can be further examined and  
11 made correctly in the future so it doesn't get sold and it's  
12 not breaking and customers aren't unhappy. But if something  
13 is -- the way I see it is that we embarked on something  
14 together, and if there is a third party, meaning the company  
15 now, it belongs to the company, you know.

16 THE COURT: The furniture pieces were created at a  
17 time when you thought you were in a collaboration with Mark  
18 Grattan, right?

19 THE WITNESS: Yes.

20 THE COURT: And then you created the single member  
21 LLC; you went online and got the document?

22 THE WITNESS: Mm-hmm.

23 THE COURT: Did you file the document anywhere?

24 THE WITNESS: Yes. I believe so, yes.

25 THE COURT: Where did you file it?



Fcldvidl

Bradley - cross

1 THE WITNESS: I don't remember exactly off the top of  
2 my head. I'm sorry. I have just been through so much in the  
3 last few months.

4 THE COURT: OK. When you created this LLC, did you  
5 physically transfer any assets to it?

6 THE WITNESS: Just -- I mean, assets in, like, how  
7 say?

8 THE COURT: Leases, pieces of furniture.

9 THE WITNESS: Well, yes. I mean, everything, yeah. I  
10 mean, it's the -- Vidivixi is where my business is. It's  
11 where -- you know, it's who I am. So like the assets that  
12 apply to it are all of my assets, the assets that have been  
13 creating the furniture, sustaining the project to the point of  
14 where it could get this far. You know what I mean?

15 I was -- at that point I had worked so hard to get it  
16 this far and then just to find out what was happening behind my  
17 back. There was no logical reasoning coming from the other  
18 side so I needed to do something, and the smartest thing I  
19 could possibly do was to lock it down so it's under control and  
20 get the best attorney I can afford to explain to me what's  
21 going on and why and how do I never let this happen to me  
22 again.

23 THE COURT: Is that why you created the LLC?

24 THE WITNESS: No. The LLC was created because it was  
25 going to be created, you know, within that time period anyhow.

Fcldvidl

Bradley - cross

1 It was just sort of like an eye opener, the email that I was  
2 sent -- that was sent to me from Mark, it scared the life out  
3 of me because I realized that someone was about to try to  
4 conspire to push me out of something I was -- you know, was my  
5 brainchild. This is my -- my everything, you know.

6 THE COURT: OK.

7 BY MR. RAO:

8 Q. Mr. Bradley, you previously testified about Jean Lin.

9 A. Right.

10 Q. Can you describe the circumstances under which you met Jean  
11 Lin?

12 A. Yeah. We met Jean. We reached out to her and then we got  
13 invited to have a meeting. We had a young lady that was  
14 helping us do the logistics of sales and email inquiries and,  
15 you know, just admin stuff and she helped us get our foot in  
16 the door. The meeting went poorly. We -- and then we got  
17 invited back and we got invited to be part of the showroom. It  
18 is a co-op so we signed a lease and we started making payments.

19 Q. Were you at the meeting?

20 A. Yes.

21 Q. When you say the meeting went poorly, what do you mean?

22 A. The first meeting with Somari was just kind of talking  
23 about irrelevant subject matters, stuff that we weren't ready  
24 for yet, getting the idea of the brand, kind of incorrectly  
25 overly ambitious. She was trying to do right thing but just

Fcldvidl

Bradley - cross

1 the wrong time. So we looked like we didn't know what  
2 decisions we, you know, are comfortable with making and where  
3 the direction of Vidivixi was going to be going.

4 She was talking, you know, factory development. We  
5 are talking custom, maybe limited-run editions but we weren't  
6 there yet, and we decided it was just going to be a line. And  
7 we were working on pricing, and all of that was happening while  
8 we were maintaining the space at Jean Lin Good Colony to at  
9 least get, you know, a clean, pristine environment to showcase  
10 the work in rather than put it in storage.

11 Q. Who is Somari?

12 A. Somari was a friend of Mark's who wanted a job to help us  
13 market our brand. We weren't ready yet. It didn't work out  
14 very well. The agreement between Mark and I was that we would  
15 hire her on for about one round, which was four payments. And  
16 she wasn't cheap so we needed the results that we needed and we  
17 weren't getting them. I paid the first two installments to  
18 Somari. By the time it was Mark's turn to start making  
19 payments, he decided that it would be better if he fired her.

20 Upon firing her, he must have scapegoated most of what  
21 he felt through me because he had to face his friend, and I  
22 got -- that was the beginning of me getting labeled the money  
23 guy. Somari threatened to sue me for not living up to our  
24 contract. So it caused some major turmoil between Mark and I.  
25 And I told him this is your idea, this is your friend, you

Fcldvidl

Bradley - cross

1 brought this person into our lives, you have to settle this.

2 And then I paid Somari and that's that. Somari was happy she  
3 got paid.

4 But that was the first very frustrating big warning  
5 sign that this was going to not work. And my potential  
6 business partner was not only using my kindness to gain some  
7 sort of control over his inability, and to sustain that, then  
8 that was just dysfunctional for me. So I was trying very hard  
9 to separate that and eliminate those situations from arising  
10 again so we didn't bring anyone else on board except anyone  
11 from outside -- outsourced fabrication.

12 Q. So Somari is somebody that you said we hired and when you  
13 said "we" you meant?

14 A. It was Mark's idea. I sat down at the meeting with her.  
15 We signed a contract, the three of us.

16 Q. Was the word "Vidivixi" used in that contract?

17 A. Of course.

18 Q. And who was identified -- who were the signatories on the  
19 contract?

20 A. Both of us.

21 Q. Was Somari at the first meeting with Jean Lin that I asked  
22 you about before?

23 A. Yes.

24 Q. Do you recall in the affidavit that you submitted in this  
25 action attaching a copy of an agreement called Independent

Fcldvidl

Bradley - cross

1 Designer Agreement with Colony?

2 A. Right. Yeah.

3 MR. RAO: Your Honor, I would like to show the witness  
4 what's been premarked as Defendants' Exhibit E and offer the  
5 same in evidence.

6 THE COURT: All right.

7 (Counsel conferred)

8 THE COURT: Mr. Bradley, do you still have your  
9 affidavit in front of you, Defendants' Exhibit A?

10 THE WITNESS: I believe so. Yes. It is all out of  
11 order. Here.

12 THE COURT: On the first page of that affidavit, in  
13 Footnote 2, it refers to the single member, member-managed  
14 operating agreement for the LLC. And it says though merely a  
15 template for single member LLCs that was never executed, it  
16 still tends to show and further confirm at the outset that at  
17 no time was Vidivixi even conceived to include more than one  
18 owner.

19 Was that accurate, that the agreement was -- that the  
20 single-member LLC was never actually executed?

21 THE WITNESS: I mean, it was a type of -- I did it --  
22 it was my first time kind of going online and, you know,  
23 setting up a company so I could have made some mistakes here  
24 and there. Not being fully aware of what I was doing or just  
25 knowing that, you know, I wanted to be an LLC, I thought that

Fcldvidl

Bradley - cross

1 if things were to work out, then obviously like it could  
2 change -- you can change things around. But, yeah, I just was  
3 trying to really just save it from devastation, you know, in a  
4 lot of ways and not lose what I was working towards for two  
5 years because, umm.

6 THE COURT: OK. Go ahead.

7 BY MR. RAO:

8 Q. All right. Do you recognize this document as the  
9 Independent Designer Agreement I was referring to earlier?

10 A. I never received your paperwork.

11 Q. Oh, I'm sorry.

12 (Pause)

13 THE COURT: No objection, Defendants' Exhibit E  
14 received in evidence.

15 MR. PEK: No objection.

16 (Defendants' Exhibit E received in evidence)

17 BY MR. RAO:

18 Q. Could you turn to the second-to-last page of the document  
19 that I have just handed you, Defendants' Exhibit E?

20 A. The Independent Designer Agreement?

21 Q. Yes. What do you see on the second-to-last page of that  
22 Independent Designer Agreement?

23 A. Business name, business type, tax ID, Social Security  
24 number, address, city, phone, zip, email, signature, print  
25 name, title, signature, print name, title.

Fcldvidl

Bradley - cross

1 Q. Do you see that there are blanks where it appears the  
2 parties would have signed the agreement?

3 A. There is not -- this is completely blank.

4 Q. Yes. Do you recall attaching this document to your  
5 affidavit in this case?

6 A. I recall attaching I think part of this document. I  
7 couldn't find the entire document where I signed my -- I  
8 imprinted my name. I believe we found like the first page of  
9 this.

10 THE COURT: There is a final page to the document  
11 which appears to be an invoice number.

12 MR. RAO: Your Honor, this exhibit was taken from a  
13 Pacer filing that combined two documents as an exhibit to the  
14 Bradley affidavit. I am just showing him exhibits to his  
15 affidavit.

16 THE COURT: Yes, it is an exhibit to the affidavit.

17 MR. PEK: Your Honor, if I just may clarify? That was  
18 my suggestion to include the invoice as an exemplar of the way  
19 payments were made pursuant thereto in the absence of a signed  
20 written agreement that we would later locate.

21 THE COURT: OK. The document is what it is. It was a  
22 exhibit to Mr. Bradley's affidavit.

23 BY MR. RAO:

24 Q. Mr. Bradley, I am now going to show you what's been marked  
25 as Defendants' Exhibit AE.

Fcldvidl

Bradley - cross

1 (Pause)

2 And with apologies for the initial quality, do you  
3 recognize this to be the signature page of the document we were  
4 just looking at?

5 A. Yeah. My signature is on there, my telephone, my studio  
6 address, the address of Vidivixi.

7 Q. Do you also see -- actually, can you identify the  
8 signatures on this document?

9 A. Mark Grattan and Francis Bradley and Jean Lin.

10 Q. And I take it you and Mark Grattan are signing for  
11 Vidivixi?

12 A. Of course.

13 Q. And then under "Title," what does it state as to your  
14 title.

15 A. It says, "Independent Designer, Signature, Print Name,  
16 Title, Business Name, Vidivixi."

17 Q. What's written after the word "Title"?

18 A. "Co-owner."

19 THE COURT: All right. No objection, Defendants'  
20 Exhibit AE received in evidence.

21 (Defendant's Exhibit AE received in evidence)

22 MR. RAO: Your Honor, just give me one minute.

23 (Pause)

24 Your Honor, we are done with the cross-examination of  
25 Mr. Bradley.



Fcldvidl

Bradley - redirect

1 THE COURT: No further questions?

2 MR. RAO: No further questions. I apologize. It has  
3 been a crazy --

4 MR. PEK: Your Honor, if I may have just a moment of  
5 redirect?

6 THE COURT: Yes. Go ahead.

7 REDIRECT EXAMINATION

8 BY MR. PEK:

9 Q. Good afternoon, Mr. Bradley. Just a few quick questions.

10 To pick up in reverse order, was it clear to you when  
11 you were just asked to read from your affidavit, the footnote  
12 in particular, that the Vidivixi term had already been defined?

13 Or do you still have before you your affidavit?

14 A. Yes, I do.

15 Q. Do you recall moments ago Judge Koeltl and Mr. Rao asking  
16 about Footnote 2 and the single member member-managed operating  
17 agreement?

18 (Pause)

19 Would you mind reading the last sentence, the second  
20 and last sentence of Footnote 2?

21 A. Where it says "though merely"?

22 Q. Yes.

23 A. "Though merely a template for single member LLCs that was  
24 never executed, it still tends to show and further confirm at  
25 the outset that at no time was Vidivixi even conceived to

Fcldvidl

Bradley - redirect

1 include more than one owner."

2 Q. Mr. Bradley, do you see where Footnote 2 arrives -- do you  
3 see -- do you find where I find it at the end of paragraph 2?

4 A. In paragraph 2 on the first page here?

5 Q. Yes.

6 A. It says, "I should mention that I am now and have always  
7 been the sole owner and the only member of my recent  
8 incorporated company, Vidivixi, LLC."

9 Q. Do you understand the parenthetical that follows?

10 A. Somewhat, to make it clear.

11 Q. Was it clear to you when you were just asked as to whether  
12 in fact Footnote 2, I think -- I don't recall the exact  
13 wording, but whether in fact it was true at the moment, at the  
14 time that you stated it?

15 THE COURT: The point of the question, Mr. Pek, was to  
16 attempt to understand from the witness whether he actually  
17 recalls signing the LLC agreement and filing it, because the  
18 footnote says that it was, quote, never executed. It was not a  
19 question directed to --

20 MR. PEK: Which entity.

21 THE COURT: -- which entity. It was a question  
22 directed to attempting to clarify the witness' testimony and  
23 recollection as to whether he ever signed that document and  
24 filed it.

25 MR. PEK: Understood.

Fcldvidl

Bradley - redirect

1 BY MR. PEK:

2 Q. Mr. Bradley, have you ever incorporated a business before,  
3 before Vidivixi, LLC?

4 A. Not solely by myself, no.

5 Q. The Independent Designer Agreement that Mr. Rao was just  
6 asking you about, at the time you entered into that with  
7 Mr. Grattan, had you yet applied for the LLC or for  
8 incorporating Vidivixi, LLC?

9 A. No.

10 Q. Why did you incorporate Vidivixi, LLC?

11 A. Well, I was planning to and there was like a direct threat,  
12 you know, email to me with sort of like an ultimatum, and it  
13 was completely irrational and out of this world and it was  
14 going to be a very difficult thing to reason with because it  
15 was already -- what was written was -- sort of made no sense  
16 whatsoever. So clearly we were in two different worlds and we  
17 see business functioning in two drastically different ways. So  
18 there wouldn't be any casual conversation that would make it  
19 clear that could resolve this. It's just not going to happen.  
20 And when I got the computer back I realized that, you know, I  
21 had done the best thing I could possibly do for Vidivixi,  
22 separate it from Mark.

23 Q. Did you pay somebody -- did you consult counsel, rather,  
24 before endeavoring to incorporate this LLC?

25 A. No.

Fcldvidl

Bradley - redirect

1 Q. You did it by yourself?

2 A. What?

3 Q. Incorporate Vidivixi, LLC.

4 A. I called my friend Jay who, you know, I designed his store.  
5 He opens up businesses a lot. So I just asked what would be  
6 the most, you know, easiest way. He actually did it for me  
7 while I was sitting there.

8 Q. I heard you say The Company Corporation. Is that -- how  
9 would you describe that company?

10 A. Yeah. You just pay them the fee. They take care of  
11 everything for you. You get your LLC and all your information  
12 in the mail a few days later.

13 Q. Did they -- did you speak with anybody at The Corporation  
14 Company?

15 A. No. It was just online.

16 Q. And did you read through the entire agreement and to your  
17 satisfactory understanding before paying the fee?

18 A. Not really.

19 Q. Was this a reactionary measure?

20 A. I would say, yeah. 50 percent yes.

21 Q. OK.

22 A. 50 percent, you know, I was planning on doing it as soon as  
23 possible anyway, you know.

24 Q. Back to the furniture just for a moment.

25 THE COURT: Mr. Bradley, the Independent Designer

Fcldvidl

Bradley - redirect

1 Agreement, when did you sign that?

2 THE WITNESS: That was signed when we moved into the  
3 showroom. It's Good Colony's sort of lease agreement in a way,  
4 like co-op agreement.

5 THE COURT: And when was that?

6 THE WITNESS: That was done I believe in late May or  
7 early June. There were a few meetings leading up to -- I think  
8 in February we started talking to her and after the  
9 Architectural Digest in March we started moving in and stuff --  
10 furniture into that space. So it had to be after March but  
11 before, you know, April, May, June, you know, that kind of time  
12 period.

13 THE COURT: Of 2015?

14 THE WITNESS: Yes. Yes.

15 THE COURT: OK. Go ahead.

16 BY MR. PEK:

17 Q. Mr. Bradley, you were questioned earlier about the pieces  
18 of furniture and also the photographs of those pieces of  
19 furniture.

20 To clarify the record, there are 14 total pieces of  
21 furniture?

22 A. Yes.

23 Q. Could you speak into the microphone?

24 A. Yes.

25 Q. And is there a piece of furniture called the folding --

Fcldvidl

Bradley - redirect

1 the --

2 A. The Double Fold?

3 Q. The Double Fold I am aware of.

4 The fold bookshelf?

5 A. Yes.

6 Q. How much wood does that have in it?

7 A. Well, it can have no wood if it is just glass shelving or  
8 it can have a wooden drawer, a drawer box, depending on what  
9 variation you buy it as.

10 Q. Does the one that sits in your studio -- is there one that  
11 sits in your studio?

12 A. Yes, yeah.

13 Q. And does that have any wood on it?

14 A. Right now I display it without any wood. The drawer box  
15 was damaged in like a move or something, so. But it's just --  
16 yeah, it was made originally with one drawer, center drawer in  
17 the middle hovering off the steel shelf.

18 Q. Are there pieces of those 14 pieces that have no wood?

19 A. Yes. Yeah.

20 Q. Did you design any of these pieces?

21 A. Yes.

22 Q. And did you -- withdrawn.

23 THE COURT: The 14 pieces, are they in a condition to  
24 be sold or are they used as models?

25 THE WITNESS: They are the first runs of these designs

Fcldvidl

Bradley - redirect

1 so they should not be sold. They need to be sort of product  
2 tested and further developed and then sort of, you know, they  
3 need to be tested by the industry to get regulations on, you  
4 know, weight capacity, how much can this bookshelf hold in  
5 weight and so we can kind of -- you know, I don't want a lot of  
6 liability falling back on me after someone knocks down a glass  
7 bookshelf on them.

8 There was an issue with the --

9 MR. PEK: I wanted to ask you about --

10 THE COURT: Stop, please.

11 MR. PEK: Forgive me.

12 THE COURT: Hold on. Let the witness answer the  
13 question. OK.

14 THE WITNESS: When I received my computer back, there  
15 was correspondence between Mark and the person who bought the  
16 nine chairs, and they were very upset that one of the chairs  
17 that he had sold, you know, behind Vidivixi's back was received  
18 by the client, were used during a holiday dinner and then one  
19 of the chairs failed and the grandfather or someone elderly  
20 collapsed in the chair, and they were unhappy. They wanted  
21 either their money back or something.

22 So when I saw that dialogue I was really upset because  
23 these are things that we were trying to -- it is one thing to  
24 show the work and -- but it needs to be further developed  
25 before it is formally cataloged and ready to be either mass

Fcldvidl

Bradley - redirect

1 produced or, you know, it is a major problem.

2 THE COURT: OK. And those 14 pieces are being stored  
3 now?

4 THE WITNESS: Right. Yes.

5 THE COURT: Where?

6 THE WITNESS: Half of them are in my studio and where  
7 we store most of the majority of the work and photograph all  
8 the work. So they are wrapped up and stored there. And the  
9 five pieces that were in Good Colony, they are at Maquette. It  
10 is an art handling, shipping logistics company. They are just  
11 being stored in their storage that is now safe.

12 THE COURT: OK. Thank you.

13 BY MR. PEK:

14 Q. Mr. Bradley, with respect to those nine chairs you were  
15 just discussing, did you do any structural integrity tests,  
16 quality control, inspection, any GSA standards, any regs, any  
17 test?

18 A. No, not as of yet, no.

19 Q. And I had heard you just mention something seemingly very  
20 unfortunate, one of those chairs broke; is that your  
21 understanding?

22 A. That is my understanding, yes.

23 Q. Do you know what that client or what that customer  
24 demanded, if anything, upon its breaking?

25 A. They wanted reimbursement, but I haven't been able to



Fcldvidl

Bradley - redirect

1 access any of my emails since the site was crashed and my  
2 server was changed. So, therefore, there is no way for me to  
3 understand what is going in and out of Vidivixi at this moment,  
4 since September.

5 Q. Are you aware that -- or whether that correspondence with  
6 that, if I may, disgruntled customer was sent from  
7 Mr. Grattan's Vidivixi.com email address?

8 A. I believe so, yes, otherwise I wouldn't have been --

9 Q. Just to refresh my memory --

10 THE COURT: Well, it is not necessary to refresh your  
11 recollection.

12 MR. PEK: OK.

13 BY MR. PEK:

14 Q. Mr. Bradley, in connection with the domain name, you had  
15 mentioned that you paid for it from its inception, of  
16 Vidivixi.com. What is the significance or purpose of the  
17 address 311 Adelphi Street?

18 A. I believe -- I'm not sure if it is still the current  
19 address, but I believe that is the address of Sebastian Silva,  
20 a former friend -- boyfriend of Mark's that used to share the  
21 apartment.

22 Q. Are you friendly with this individual?

23 A. Seb is a wonderful guy.

24 Q. Is that where Vidivixi has any business?

25 A. No, none whatsoever.

Fcldvidl

Bradley - redirect

1 Q. Are you aware that that's still currently listed as the  
2 registrant address for the Vidivixi.com website?

3 A. Yes. We were -- that became aware to us while we were  
4 doing the research with GoDaddy to figure out what happened to  
5 the website and who was -- who crashed it and why and what  
6 they're doing and what gave them access to it.

7 Q. Are you aware that in connection and as a necessary  
8 consequence of purchasing a domain name from GoDaddy.com you  
9 agreed to certain terms and conditions?

10 A. Yes.

11 Q. Would it surprise you to learn that it is a violation to  
12 not keep your registrant information current and it provides  
13 grounds for cancellation?

14 A. I am aware of that, yes.

15 THE COURT: Is this redirect directed at a subject  
16 that was opened up on cross?

17 MR. RAO: No, your Honor. I was just going to make  
18 that objection. I don't recall ever asking Mr. Bradley about  
19 this.

20 THE COURT: Well --

21 MR. PEK: OK.

22 THE COURT: And, by the way, when you make objections,  
23 it is customary to stand, right?

24 BY MR. PEK:

25 Q. Mr. Bradley, of all the outsourcing that Vidivixi has done,

Fcldvidl

Bradley - redirect

1 can you estimate how many total upholsterers and steel makers  
2 and what have you, the total vendors to whom you have  
3 outsourced?

4 A. Five or six, probably.

5 Q. Have you ever had to change a vendor for the same material  
6 or the same --

7 A. Yes. Yeah.

8 Q. Can you give me an example?

9 A. We had to change the vendor in Philadelphia because the  
10 work wasn't up to par and we --

11 Q. Was there ever a vendor at that would no longer do business  
12 with you?

13 A. Would no longer do business?

14 Q. Or refuse to continue to do business?

15 A. Not in particular with me --

16 Q. With Vidivixi. I'm sorry.

17 A. With Vidivixi, no. I think there were certain  
18 circumstances where when ordering supplies and stuff like that,  
19 there had to be a little sneaking around because Mark, they had  
20 some claims on him for nonpayments and stuff like that. So  
21 they wouldn't sell us wood or anything.

22 Q. So have there been occasions where you have had to change  
23 suppliers or vendors as a result of something that you  
24 understand to be Mr. Grattan or that was claimed to have been  
25 Mr. Grattan's error or fault?

Fcldvidl

1 A. Possibly. I have to think, yeah.

2 Q. Just lastly, have you enlisted any of your networks or  
3 contacts to assist in fabrication outsourcing?

4 A. Yes.

5 MR. PEK: OK. Nothing further.

6 THE COURT: Mr. Bradley, you are excused. You may  
7 step down.

8 THE WITNESS: Thank you, your Honor.

9 (Witness excused)

10 THE COURT: Call your next witness.

11 MR. PEK: The plaintiffs call Anthony Bunda, who I  
12 will go retrieve.

13 THE COURT: We are going to break in about five  
14 minutes of 1 and then we will resume at 2 o'clock.

15 MR. PEK: I would prefer to -- well, if it pleases the  
16 Court, I think it would be --

17 THE COURT: I'm sorry.

18 MR. PEK: If it pleases the Court, I am happy to begin  
19 Mr. Bunda's testimony following the break. If your Honor would  
20 prefer us to begin now, that's fine.

21 THE COURT: I would like to use the time because --

22 MR. PEK: OK. Understood.

23 THE COURT: -- this afternoon we are only going to be  
24 able to sit from about 2 until 2:45, when I have a criminal  
25 matter, and then we are going to resume at 4 o'clock after I

Fcldvidl

Bunda - direct

1 deal with a couple of other criminal matters.

2 MR. PEK: Understood.

3 THE COURT: And then we'll go for some time and then  
4 resume tomorrow morning.

5 MR. PEK: OK.

6 THE COURT: Go ahead.

7 (Pause)

8 THE CLERK: Remain standing.

9 ANTHONY PETER BUNDA,

10 called as a witness by the plaintiffs,

11 having been duly sworn, testified as follows:

12 THE COURT: Please state your full name for the  
13 record.

14 THE WITNESS: Anthony Peter Bunda.

15 THE CLERK: Spell your last name.

16 THE WITNESS: B-u-n-d-a.

17 THE COURT: Mr. Pek, you may examine.

18 DIRECT EXAMINATION

19 BY MR. PEK:

20 Q. Good afternoon, Mr. Bunda.

21 A. Good afternoon.

22 Q. You understand that you have been called as a witness here  
23 as a result of a dispute concerning the business entitled  
24 Vidivixi?

25 A. Yes.

Fcldvidl

Bunda - direct

1 Q. Are you familiar with Vidivixi?

2 A. Yes.

3 Q. Would you say you are very familiar with Vidivixi?

4 A. I'm pretty familiar, yeah.

5 Q. If I may, do you have -- are you currently employed?

6 A. Yes. I bartend down at the Jersey shore.

7 Q. And have you been employed for the past two years  
8 continuously?

9 A. Yes.

10 Q. How many hours would you say that you have spent, if any,  
11 working for Vidivixi or contributing time or effort to  
12 Vidivixi?

13 A. Over the last two years, depending on my availability and  
14 flexibility with my other job, I'd say upwards of 60 hours a  
15 week.

16 Q. 60 hours a week?

17 A. Yeah. I usually spread out over three days, so like  
18 Tuesday, Wednesday, Thursday.

19 Q. Could you describe what kind of work you have done for  
20 Vidivixi?

21 A. Everything ranging from picking up supplies, from, you  
22 know, lumberyards, different stores, Home Depot, to  
23 transporting finished pieces to and from art shows, showrooms,  
24 to different clients and a wide range of assembly and painting,  
25 you know, working on the different pieces.

Fcldvidl

Bunda - direct

1 Q. Where was the majority of your work done, if it was done in  
2 one place?

3 A. It was split up between the wood shop in Sunset Park and  
4 the studio on Stewart Avenue. I'm not sure of the area that it  
5 is there.

6 Q. Does 551 Stewart Avenue ring a bell?

7 A. Yes.

8 Q. Would you describe the kind of work that you've done? What  
9 you've just described, is that predominantly manual labor,  
10 would you say?

11 A. For the most part. A lot of times when I would come in it  
12 would be for the most physical part, but through the course of,  
13 you know, those days, obviously, 20-hour days, discussions  
14 would be had about future projects and, you know, small design  
15 stuff with, you know, regards to the height of different  
16 pieces, size.

17 Q. Were you ever paid, compensated for your time by Vidivixi?

18 A. There were times where I was partially compensated for my  
19 time, but there are also times where I was going to be  
20 compensated and chose to forgo compensation so that money could  
21 go back into the business and whether it be for rent, supplies,  
22 things of that nature to ensure that, you know, we can make  
23 more money down the road and continue the business.

24 Q. Would you say you are a supporter of the business?

25 A. I believe so, yeah, between more time and labor than money

Fcldvidl

Bunda - direct

1 but definitely those -- time, labor and money for sure.

2 Q. Did you before coming to court today ever have a chance to  
3 review Mr. -- well, first I should ask, do you know the  
4 defendant Mark Grattan?

5 A. I do, yes.

6 Q. How long have you known Mr. Grattan for?

7 A. Roughly I would probably say 12/13 years. I met him when  
8 him and Francis Bradley were in school together in the city.

9 Q. And you've known -- you've known Francis Bradley prior to  
10 that or at the same time?

11 A. I've know Francis going on 20 years or so.

12 Q. Mr. Bunda, did you have a chance to review Mr. Grattan's  
13 declaration in opposition to a motion for preliminary  
14 injunction filed by plaintiffs in this action?

15 A. Yes.

16 Q. Do you recall any particular highlights or notable points,  
17 any part or portion of that resonate with you or strike a chord  
18 as being --

19 MR. RAO: Objection.

20 THE COURT: Sustained.

21 Q. Did you contribute to the fabrication to any degree of any  
22 Vidivixi furniture?

23 A. Yes.

24 Q. Did you transport Vidivixi furniture?

25 A. I transported it, like I said, to and from the various



Fcldvidl

Bunda - direct

1 workshops, to showrooms, to the Architectural Digest show that  
2 was over at Pier 98, I believe. It was over by the Intrepid.  
3 I picked up pieces from one of Mark's apartments and  
4 transported that like to different showrooms for transport to  
5 customers.

6 Q. Of all the time, 60 hours a week, as you said, roughly, is  
7 that for the past approximate two years?

8 A. Yes.

9 Q. How much -- during those work hours, did you work  
10 exclusively with Mark or with Tim or with them together, or was  
11 it a little bit of --

12 A. It was a combination of all three. There were times I  
13 would just be working with Francis Bradley. There were times I  
14 was working with just Mark Grattan. There were times I was  
15 working with both of them. And there are times where I was the  
16 only one doing work and they were having discussions about  
17 either, you know, upcoming shows or other aspects of the  
18 business.

19 Q. Are you aware or do you recall in reviewing Mr. Grattan's  
20 declaration Mr. Grattan making a claim that he fabricated every  
21 piece of Vidivixi furniture?

22 A. Yes.

23 Q. Is that accurate, in your estimation?

24 MR. RAO: Your Honor, we object to the competence of  
25 the witness to testify as to accuracy of Mark Grattan's

Fcldvidl

Bunda - direct

1 statements in a declaration.

2 THE COURT: Sustained.

3 Rephrase the question.

4 BY MR. PEK:

5 Q. Mr. Bunda, were you an eyewitness to Vidivixi furniture  
6 fabrication during those 60 hours a week for the past two  
7 years?

8 A. Yes.

9 Q. And would you describe those 14 pieces as the product of  
10 one person or a collection of people or --

11 A. Well, it was a combination of, you know, many people, from,  
12 you know, myself, Mr. Grattan, Mr. Bradley and then, I mean,  
13 there is upholsterers and that type of stuff. So, I mean, it  
14 wasn't a one-man show. There were many, many moving parts and  
15 people to it.

16 Q. Upholsterers, like -- are you familiar with the Puff Panel  
17 Sofa?

18 A. I'm familiar with the word. I'm having a hard time  
19 visualizing which one that exactly is. I think that was a  
20 black one at the second AD show, if memory serves.

21 Q. Right, it is black. What I was trying to ask is would  
22 upholsterers fall under the category of outsourcing that  
23 Vidivixi does that you have been a part of or ever witnessed?

24 A. Yes.

25 Q. But is it correct that you are not one of the folks -- the

Fcldvidl

Bunda - direct

1 vendors to whom such finishing work is or upholstery work is  
2 done?

3 A. No. I never really did any of the major stuff. I  
4 stretched some leather over some panels for some of the beds  
5 that we did, but nothing of the stuffing or, you know, the main  
6 part that makes up the copy part of the furniture.

7 THE COURT: You are not an upholsterer?

8 THE WITNESS: Correct.

9 BY MR. PEK:

10 Q. You are a bartender.

11 A. I am a jack of many trades.

12 Q. Is that 60-hour week for the past two years, give or take,  
13 is it safe to say that those hours were expended on work done  
14 pre-outsourcing?

15 A. Yes. I mean, there was work done and then, you know, we  
16 would take the skeleton, if you will, of the furniture to the  
17 upholsterer, and then they would put on the fabric and the  
18 stuffing and all of that.

19 THE COURT: But then you would have to take it back at  
20 some point, right?

21 THE WITNESS: Correct.

22 THE COURT: And if you were going to take it to a  
23 show, then you would take it to the show?

24 THE WITNESS: Correct.

25 THE COURT: Right.

Fcldvidl

Bunda - direct

1 BY MR. PEK:

2 Q. If you didn't take it to the show, who did, who would, who  
3 has?

4 A. On a few occasions there were gentlemen that I didn't know  
5 of. It was just whoever they could find. I don't know any of  
6 their names or business names.

7 Q. Do you have background working in any connection with the  
8 art industry?

9 A. I do. I worked with Maccarone Gallery for a number of  
10 years. Duties ranging from packing up a piece of art for  
11 shipment overseas or to collectors setting up and taking down  
12 for art shows, which entailed everything from, you know,  
13 hanging a painting on the wall to knocking down the existing  
14 walls and putting up new ones.

15 Q. Demolition?

16 A. Demolition, construction, hanging heavy metal pieces from  
17 ceilings. It was a wide variety of applications.

18 Q. Do you feel like in the work that you've done for Vidivixi  
19 you have been able to apply the skill sets that you have  
20 learned or acquired in, for example, working for the Maccarone  
21 Gallery?

22 What I mean to say is were you an eligible laborer on  
23 behalf of Vidivixi as a result of prior related experience  
24 working for, for instance, the Maccarone?

25 A. Yes. I have worked with various artists on various

Fcldvidl

Bunda - direct

1 projects exclusively and, you know, under their direction, and  
2 through that I've also done side jobs, you know, here and  
3 there. So all of that has in one form or another helped me to  
4 contribute to the company.

5 THE COURT: OK. We are going to break now for lunch  
6 and I'll see you all back at 2 o'clock. Have a good lunch.

7 (Luncheon recess)

Fcldvidh

Bunda - direct

**A F T E R N O O N   S E S S I O N**

2:12 p.m.

ANTHONY PETER BUNDA,

Resumed, and testified further as follows:

THE COURT: Good afternoon, all. Please be seated.

The witness is reminded, you are still under oath.

THE WITNESS: Yes, sir.

MR. RAO: Judge, before we begin the proceedings, there is a small matter that I wanted to raise with the Court. I've conferred with plaintiff's counsel on this and obtained consent.

We have three witnesses, nonparty witnesses, that I had subpoenaed here. Their availability is dicey at best for tomorrow, and we had spoken to plaintiff's counsel about putting them on after Mr. Bunda and before the conclusion of the case in chief. I think with the late start and a few other issues, we are at least amenable to doing that and we would appreciate the Court's allowing that.

THE COURT: Fine.

MR. RAO: Thank you.

DIRECT EXAMINATION (Resumed)

BY MR. PEK:

Q. Good afternoon again, Mr. Bunda.

A. Good afternoon.

Q. So I'd like to ask you a few questions about your specific

Fcldvidh

Bunda - direct

1 work with regard to the 14 pieces, to the best of your  
2 recollection, so as to inform the Court and -- inform the Court  
3 as to how much time and effort and manpower and labor hours  
4 have gone into each piece.

5 Do you have a specific recollection of, for example,  
6 any particular of these 14 pieces being twice the amount of  
7 work, say, than any other one, for instance, the Three Piece  
8 Suit, or anything that required any special expertise or  
9 knowledge for purposes of pre-outsourcing fabrication and  
10 design?

11 A. Let's see. I do remember I believe it was called the  
12 Jumping Jack Credenza. It was a bar that was done for the  
13 first AD show. I remember picking up the glass top for that  
14 bar and spray painting that bottom part black as to make the  
15 glass a little bit more -- I believe the glass was like a blue  
16 tint and it wasn't a clear one so they wanted me to try and  
17 remove that. I remember installing the jumping jacks, which  
18 are the X-like signs on that, and then packaging, delivering  
19 it, and setting up for the AD show, the first one.

20 Q. Well, about the AD show --

21 A. Yes.

22 Q. -- at the AD show, how does each participant -- how are  
23 they permitted to present or showcase their pieces?

24 A. So each presenter gets a booth or however the space that  
25 they require, and then they have I believe it was 24 hours

Fcldvidh

Bunda - direct

1 before the show opened to set up and, you know, bring  
2 everything in. And from that we obviously brought all the  
3 pieces in, installed a wood floor to make the pieces stand out  
4 because all the other booths were just an empty gray floor.  
5 And then, you know, it was a matter of staging everything and  
6 moving it around, see which best fit in the place and what  
7 pieces complimented each other.

8 Q. When you say 24 hours, does that mean that every  
9 participant or artist displayer has just that short 24-hour  
10 window to get their booth set up?

11 A. Yes. There is a certain amount of time that they allowed  
12 you to put everything in, and then whatever electricians or  
13 other people that they had to set up for the stuff, they left  
14 that last but a time for them, you know, the -- my God, what's  
15 the word -- proprietors of the show to allow all of that to be  
16 done, the final touches.

17 Q. And once the booths are set up, is it open to the public,  
18 is it an invite only, or is it just a kind of --

19 A. My understanding is you had to purchase some type of ticket  
20 to get into the event and from there, you know, it was open.

21 Q. So if I heard you correctly, you all laid down the wood  
22 floor for the AD show this past -- was that this past March?

23 A. This was two Marchs ago; not this year, the one prior.

24 Q. And to the best of your knowledge, Vidivixi has been  
25 invited to, has participated in or has been shown at two AD



Fcldvidh

Bunda - direct

1 shows?

2 A. Correct.

3 Q. The same show two years in a row here in New York?

4 A. Correct.

5 Q. And did you work on setting up the booth and the showcase,  
6 for lack of a better word, at each show?

7 A. Yes, I did.

8 Q. Would you describe that work as heavy lifting in the way of  
9 setting up within 24 hours so that a very high-end expo can --

10 THE COURT: Is this relevant?

11 MR. PEK: Yes, it is.

12 THE COURT: OK.

13 MR. PEK: The point I am trying to make, your Honor,  
14 is that --

15 THE COURT: Go ahead.

16 MR. PEK: OK.

17 BY MR. PEK:

18 Q. During that 24-hour period, who were you working with to  
19 set up the booth -- who set up the booths at the AD shows?

20 A. Myself, Francis Bradley. Mark was there at points, and  
21 there was -- I feel like there was one other person, I forget.  
22 I think it was a female that had something, like a lamp or  
23 something, that was in there.

24 Q. And so it was your job to set up the booth, get it ready,  
25 and then --

Fcldvidh

Bunda - direct

1 A. It was to deliver all the furniture. The place did not  
2 provide any assistance for transporting the pieces in, setup,  
3 the installation of the wood floor, and then cleaning up the  
4 area.

5 Q. After the show was complete -- or before it, rather?

6 A. Before the show opens, yes.

7 Q. Is it your understanding or recollection that these AD  
8 shows were of much value in terms of exposure for Vidivixi as a  
9 business?

10 A. Well, the first year we won an award for best design or  
11 whatever they were giving out, and that, you know, got some  
12 notoriety and exposure for the company.

13 Q. Do you happen to know if the show this year, this past  
14 March, resulted in any awards or selections?

15 A. I know we didn't win the award that we won the year prior.  
16 I don't know if any awards were given for this show.

17 Q. Can you think of any other -- earlier this morning we heard  
18 Mr. Bradley discuss the Factory Floor Expo. I don't know if I  
19 am saying that correctly. Were you part of the Factory Floor  
20 setup as well, an expo by the name of Factory Floor?

21 A. The name doesn't sound familiar but I could have worked on  
22 it before. I don't remember.

23 Q. Do you remember any other showcase opportunities, expos or  
24 the like, like the AD show that you worked on for Vidivixi?

25 A. I remember going to different showrooms but I'm not sure I

Fcldvidh

Bunda - direct

1 can remember this Factory off the top of my head.

2 Q. Did you spend -- do you have an idea of how much time of  
3 the 60 hours approximate per week that you spent working, it  
4 sounds like you were something of a fly person who did -- or,  
5 put differently, you were doing whatever was most important to  
6 be done at the time, and it sounds like somewhat specializing  
7 in heavy lifting and physical work. I mean, I guess a better  
8 question is did you design any of these pieces?

9 A. Some pieces I was involved in discussions as to, you know,  
10 various heights, colors. It all depends on at what stage in  
11 the project I was involved in. Some I was involved in the from  
12 the beginning, some in the middle, some just final touches. It  
13 just depended on where the project fell when I happened to  
14 arrive.

15 Q. Is it also specific to each piece, the process, as you  
16 recall it, how these pieces came to be fabricated, or was there  
17 not an assembly line but was there something of a Vidivixi  
18 protocol for how you all take a concept and bring it to a  
19 tangible physical beautiful piece of furniture?

20 A. Well, yeah. We would start with the idea and then  
21 discussions about materials, color, you know, placement of  
22 certain things. I forget. The floating desk -- a desk, I  
23 remember there was talks about, you know, placement of knobs  
24 and the triangle piece to make it not look like -- I think it  
25 was to make it not look like a face, so much to look like a

Fcldvidh

Bunda - direct

1 face. Some were fine details. Some were abstract.

2 Q. And is it -- earlier this morning Mr. Bradley was  
3 testifying about the -- well, were you within earshot or part  
4 of the design element or the design process for any particular  
5 piece more so than any other piece or any pieces at all?

6 A. Oh, yeah. We definitely had discussions throughout the  
7 various times, whether it be at the 551 Stewart studio or the  
8 Sunset wood shop. You know, it would be varying degrees of  
9 shelf placement, like I said, color, overall layout.

10 Q. So did you spend -- you spent time in the wood shop working  
11 as well?

12 A. Correct.

13 Q. All right. Did you operate any machinery in the wood shop?

14 A. Yes.

15 Q. Did Mr. Bradley?

16 A. Yes.

17 Q. And Mr. Grattan as well?

18 A. Yes.

19 Q. Did anybody else for Vidivixi, based on your firsthand  
20 personal knowledge?

21 A. Not that I can remember. Most of the time when I was  
22 working it was with Mr. Bradley and Mr. Grattan at various  
23 points.

24 Q. And do you have a sense of whether the majority of the time  
25 was spent in the wood shop versus the studio or was it just a

Fcldvidh

Bunda - direct

1 little bit of a mixed bag?

2 A. It was wherever we needed to be. If, you know, some of the  
3 pieces were cut out and ready to be assembled and, you know, we  
4 needed the space at the Sunset Park shop, we, you know, could  
5 bring it to the studio and work on it from there. But, I mean,  
6 it was split up maybe 60/40 for the Stewart to the wood shop.

7 Q. Was there any kind of chain of command in the way as from  
8 your perspective, was there a visionary for any particular  
9 piece as commanding, you know, directing you all, or the other  
10 folks to make their vision a reality?

11 A. Well, I mean, as far as the chain of command, I was the --  
12 I was the lowest. For the most part, Francis was telling me  
13 what to do. I mean, Mark would tell me how to do certain  
14 things as well. But most of my direction came from Francis  
15 Bradley.

16 Q. Have you ever heard the word "Vidivixi" before 2013?

17 A. Not in the context that it came out. I've heard of --  
18 there is a saying "veni, vidi, vici" I think is the saying.  
19 That is the closest that I have heard of it.

20 Q. Were you aware of prior to the collaboration between  
21 Mr. Grattan and Mr. Bradley the appearance or existence or  
22 manifestation of Vidivixi in any form or medium prior to the  
23 Vidivixi business that we have been discussing?

24 A. Sorry, I don't understand the question.

25 Q. Did Vidivixi -- are you aware of any Vidivixi lighting

Fcldvidh

Bunda - direct

1 installations or music installations, for example?

2 MR. RAO: Objection. Leading.

3 THE COURT: Sustained.

4 Q. Are you aware of any non-furniture related Vidivixi  
5 activities?

6 A. Well, I mean, I know there were other instances where it  
7 wasn't just furniture being made. I remember there is I think  
8 for the first AD show, I believe -- no, I'm sorry, the second  
9 there was like a green vase light. I'm trying to think. There  
10 were other lighting implements that were in this show. I'm  
11 just not -- I didn't work on them so I wasn't really -- I  
12 couldn't really describe those.

13 Q. If you can't remember that, that is fine.

14 Are the 14 pieces, as you know them to be, if you know  
15 all 14 pieces, and I think -- well, do you?

16 A. Yes, I know them.

17 Q. Is that a correct figure? Have you worked on all of them?

18 A. Yes.

19 Q. And would you characterize the resulting pieces in -- was  
20 this -- withdrawn.

21 Do you regard or is your experience working with  
22 Vidivixi a team effort?

23 A. Yes, definitely.

24 Q. Was it always a team effort?

25 A. From what I saw, yes.

Fcldvidh

Bunda - direct

1 Q. So you had never -- withdrawn.

2 Did you ever find yourself working for Vidivixi by  
3 yourself?

4 A. Oh, there were certain times when I would come in and I  
5 would give Francis and Mark time to collaborate, troubleshoot  
6 some problems while I worked on, you know, assembling or, you  
7 know, staining, waxing, whatever needed to be done for that  
8 particular piece at the time.

9 Q. Do you recall the last shift of work or last time -- last  
10 instance that you invested time and effort in working for  
11 Vidivixi?

12 A. The most recent that I can recall would be for the second  
13 AD show that was this past March.

14 Q. After that AD show, did you experience less -- or did  
15 Vidivixi appear to you to have less of a need for you? Was  
16 there a change in the last six months since the AD show?

17 A. There was definitely a dropoff in the momentum that we had  
18 been building up from the first AD show from all the buzz and  
19 hype from that.

20 THE COURT: Is there a witness in the courtroom?

21 (Pause)

22 MR. RAO: He is not one of our witnesses.

23 THE COURT: No. OK, go ahead.

24 BY MR. PEK:

25 Q. So in the last two years in all of the work that you have

Fcldvidh

Bunda - direct

1 done for Vidivixi, you testified earlier to it being a shared  
2 effort but receiving some commands, maybe more so than anybody  
3 else, from Mr. Bradley at least insofar as you are concerned?

4 A. Correct.

5 Q. Have you ever requested or sought to assert any proprietary  
6 interest, any ownership interest in Vidivixi as a result of  
7 your sweat equity, if you will?

8 A. Yes, I did. I mean, I've been working with Francis for  
9 many years on many different projects, and this was one project  
10 that I was hoping would be the fruitful gain of all of these  
11 efforts over the many years and especially the last two.

12 Q. How much computer-related work was involved or required in  
13 connection with the fabrication and production of these pieces?

14 Did you have occasion to work on a computer yourself,  
15 for example?

16 A. No. I'm pretty computer illiterate, but what I saw was all  
17 hand drawn.

18 Q. When you say "hand drawn," were these designs or were these  
19 specs or --

20 A. Designs, sketches, umm, you know, just trying to hammer  
21 down the final idea. So it may have started, you know, one way  
22 and then the final product was different but, you know, all  
23 projects work like that.

24 Q. How would you describe the working relationship, as you  
25 perceived it, as you experienced it, as between Mark Grattan



Fcldvidh

Bunda - direct

1 and Tim Bradley?

2 A. At times good, at times strained, and definitely more  
3 strained I saw on Francis through various multiple bad business  
4 decisions on Mr. Grattan's part.

5 MR. PEK: Just a moment, your Honor.

6 (Pause)

7 Q. Did you ever do any work or do you recall doing any work  
8 for just yourself and Mr. Grattan?

9 A. Yes.

10 Q. What type of work was that?

11 A. One instance was a delivery of two pieces to someplace in  
12 Connecticut, the Bridgeport area, I don't really remember. And  
13 then other times, you know, I would be in the shop with  
14 Mr. Grattan and, you know, Mr. Bradley would have to go take  
15 care of something else and vice versa.

16 Q. In the last two years or in the two years that the joint  
17 venture, the collaboration, the partnership, the business of --  
18 business enterprise of Vidivixi -- well, were you -- withdrawn.  
19 Were you privy or otherwise aware of any sales income, revenue  
20 streams coming in?

21 A. The only one that I was aware of was the piece that I  
22 mentioned, the two pieces out to Connecticut. I'm not sure if  
23 that was a personal piece that Mr. Grattan had done by himself  
24 or if it was a collaboration. The only part I remember being  
25 on that was the delivery.

Fcldvidh

Bunda - direct

1 Q. You just helped delivering the pieces?

2 A. Yes.

3 Q. And you weren't present for any transactional aspect, any  
4 changing of checks or money?

5 A. No.

6 Q. Have you ever had the occasion to visit the Vidivixi  
7 website, or are you familiar with the Vidivixi website?

8 A. I've visited -- I know I've seen the Instagram. I maybe  
9 visited, you know, a couple of times the Vidivixi.com, I  
10 believe.

11 Q. I just want to turn to one last topic, that being the  
12 nature of these 14 pieces.

13 Would you describe these pieces as ready for use by an  
14 end-user, or, in other words, were these prototypes, as you  
15 understood them to be, or were they just one of each 14  
16 different kinds of furniture, 14 different models?

17 A. My understanding was that these pieces originally were  
18 showpieces to spark orders and once they came in they would be  
19 made to order.

20 Q. Were you ever present for any inspection or any kind of  
21 testing for, say, structural integrity or fitness for a  
22 particular purpose or use?

23 A. I mean, I sat on them after they were done. I may have  
24 lost some weight but they held me so I thought it was pretty  
25 good.

Fcldvidh

Bunda - direct

1 Q. To the best of your knowledge, are you aware of any  
2 manufacturing operations whereby these prototypes -- if  
3 Vidivixi has any kind of means of producing or filling orders?

4 A. The only infrastructure that I know was set up was the work  
5 that we were doing. There was no outside factory or assembly  
6 line, to my knowledge.

7 Q. And having been a part of I think the heavy lifting, as I  
8 believe you were a part of, was it ever your understanding that  
9 these pieces were ready to be sold, orders ready to be fielded,  
10 received? Was there a business that could actually fill  
11 orders, or were these just window pieces, proof of concept  
12 pieces, prototypes from which a line could be generated on an  
13 assembly line, for example?

14 A. My understanding is that they were essentially floor  
15 models, showpieces that were either going to be on the website  
16 to spark interest in sales or to, you know, find a showroom and  
17 get those in there for the same purpose.

18 THE COURT: That is what you testified to before?

19 THE WITNESS: Yes.

20 THE COURT: Right.

21 BY MR. PEK:

22 Q. And the two pieces that you helped Mr. Grattan deliver to  
23 Connecticut, were they -- they were two chairs I think you  
24 said? What were they?

25 A. They were two like end table, like desk type things, about

Fcldvidh

Bunda - direct

1 the size and width of this area right here (indicating).

2 Q. Are those pieces, to the best of your knowledge, or were  
3 they ever depicted on the Vidivixi website?

4 A. Not to my knowledge, no.

5 Q. Have you ever seen any photos of those pieces?

6 A. No.

7 Q. Have you ever done any work for Mr. Grattan in connection  
8 with any personal venture separate from Vidivixi of  
9 Mr. Grattan?

10 A. The only thing I can think of right now are the two pieces  
11 that got delivered to Connecticut.

12 MR. PEK: OK. No further questions, your Honor.

13 THE COURT: OK. I have a criminal matter at the  
14 moment and criminal matters take precedence. I will take a  
15 break. There is another criminal matter that follows this one.  
16 Whether the parties are ready for that, I don't know. If they  
17 are not, we'll continue. If they are, then we'll have to break  
18 until about 3:30 or 3:45.

19 So let me move to the criminal matter.

20 You can step down and then go to the witness room.

21 (Recess)

22 (Continued on next page)

Fcldvidh

Bunda - cross

1

2

THE COURT: All right.

3

4

THE CLERK: The witness is reminded you are still  
under oath.

5

THE WITNESS: Yes, sir.

6

THE COURT: All right. Mr. Rao, you may examine.

7

CROSS-EXAMINATION

8

BY MR. RAO:

9

Q. Good afternoon, Mr. Bunda.

10

Let's start. You testified earlier that you have been  
a friend of Mr. Bradley's for over 20 years, is that correct?

11

A. Correct.

12

Q. How did you first meet Mr. Bradley?

13

A. Probably middle school.

14

Q. I see. Where would that have been?

15

A. In Ridgewood, New Jersey.

16

Q. Got it. And you've known him since?

17

A. Yes.

18

Q. You also mentioned the Masarone Gallery?

19

A. Maccarone.

20

Q. Maccarone?

21

A. Yes.

22

Q. When were you working there?

23

A. I was working there, gees, somewhere starting around maybe  
2005 maybe; somewhere, give or take, that area. I would help

24

Fcldvidh

Bunda - cross

1 on various projects and then as I helped them out more and  
2 more, I was helping them out more and more.

3 Q. Sure. Was Mr. Bradley working at the MacCarone Gallery  
4 while you were there?

5 A. Yes.

6 Q. And did you ever work together on projects?

7 A. Yes.

8 Q. What kind of projects?

9 A. Various projects, from taking down the previous art  
10 showing, setting up for the new one, working with artists for  
11 pieces that were being made for those shows.

12 Q. Did you, you personally, did you do any fabricating while  
13 you were at the MacCarone Gallery?

14 A. Yes.

15 Q. What kind of fabricating?

16 A. I worked with cement. I worked with metal, different wood.  
17 Whatever the project called for we worked on.

18 Q. You started working there in 2005. About when did you  
19 leave the MacCarone Gallery?

20 A. 2011 maybe.

21 THE COURT: Was that a full-time job?

22 THE WITNESS: I mean, I wasn't there every day. I was  
23 there in between between the art shows. So I would, for one, I  
24 would take down, package, get rid of all the art from the  
25 previous show, set up, and then however long that show ran,

Fcldvidh

Bunda - cross

1 five weeks, six weeks, whatever, come back and repeat the same  
2 process.

3 BY MR. RAO:

4 Q. Were you employed there or were you independently  
5 contracted to them?

6 A. Well, I mean, I received my paychecks from them. As far as  
7 whether I was an independent contractor or not, I wouldn't  
8 really --

9 Q. And did you and Mr. Bradley join the gallery around the  
10 same time?

11 A. No. He joined first.

12 Q. How is it that you came to the Maccarone Gallery?

13 A. There was a project that Tim needed help on. He called me  
14 down and I helped him out, and that started the process of me  
15 coming down and helping out for shows.

16 Q. All right. Did anyone else at the gallery -- was there an  
17 interview process, a job interview process, or how is it that  
18 they hired you?

19 A. Well, I was hired through Tim -- I mean, through Francis  
20 Bradley initially, but I met with the owner and the curator and  
21 from there they continued to, you know, we'd like you to come  
22 back and help out whenever you can.

23 Q. OK. And you stayed in touch with Tim since?

24 A. Yes.

25 Q. You also mentioned that you're currently bartending?

Fcldvidh

Bunda - cross

1 A. Correct.

2 Q. Where is that bar?

3 A. It's two different bars. One is Kelly's Tavern, Neptune  
4 City. The other is Wonder Bar in Asbury Park.

5 Q. Where is Neptune City?

6 A. New Jersey.

7 Q. And Asbury Park?

8 A. New Jersey, as well.

9 Q. What kind of hours do you work the two bars, Kelly's Tavern  
10 and I forget the name of the other one, actually?

11 A. I mean, it's varied over the past three years. Primarily  
12 it's a Friday-through-Monday shift.

13 Q. Do you work nights?

14 A. Yes. Nights, days.

15 Q. How long have you bartended for?

16 A. Three/four years.

17 Q. Got it. Do you have any other jobs?

18 A. Just those and the work I was doing here in the city with  
19 Vidivixi.

20 Q. How long would it take you to travel from, say, one of the  
21 bars in New Jersey to the Stewart Avenue studio?

22 A. Depending on the time of day and traffic, anywhere from an  
23 hour-and-a-half to two-and-a-half, three hours.

24 Q. And what about the wood shop in Sunset Park?

25 A. Again, about the same.



Fcldvidh

Bunda - cross

1 Q. You testified earlier that you worked approximately 60  
2 hours a week on Vidivixi, is that correct?

3 A. Correct.

4 Q. You also testified that that was primarily from Tuesday to  
5 Thursday, is that correct?

6 A. For the most part, yes.

7 Q. Is that because your bartending job was a Friday to Monday  
8 gig, as you just put it?

9 A. Well, yes.

10 Q. OK. Does that mean you were working approximately 20 hours  
11 a day on Vidivixi during the Tuesday through Thursday?

12 A. Yes.

13 Q. I see. You also mentioned, or testified, that you had  
14 operated machinery in the wood shop?

15 A. Yes.

16 Q. Do you recall ever signing a waiver to operate that  
17 machinery?

18 A. Several times, yes.

19 Q. OK. Are you familiar with Walter Goodman at the wood shop?

20 A. Yes.

21 Q. Did he ever explain to you a policy around machinery  
22 operation and who was permitted to operate machinery?

23 A. He handed me the paper and signed it and said it was a  
24 waiver for the use of the equipment and the shop.

25 Q. Did you pay any rent to Walter to use the shop?

Fcldvidh

Bunda - cross

1 A. I never exchanged any money with Walter, no.

2 Q. What machinery did you operate?

3 A. Table saw, the -- I call it the big belt sander, the  
4 planer. I'm trying to think if there is anything else I might  
5 have used. You mean specifically the equipment that was  
6 provided by the shop or just --

7 Q. Correct.

8 A. Yes. Like the table saw, the big sander, the planer.  
9 Those are things I can readily remember using quite often.

10 Q. Had you used those before?

11 A. I'm sorry.

12 Q. Had you used those before working on Vidivixi projects?

13 A. Yes.

14 Q. Would that have been at the MacCarone Gallery?

15 A. No, it would have been at the shop.

16 Q. Did you work on non-Vidivixi --

17 THE COURT: Could you spell for us the name of the  
18 gallery that you have been referring to?

19 THE WITNESS: To the best of my ability, it's  
20 M-a-c-c-a-r-o-n-n-e, I think. There might be two Rs or two Ns,  
21 I'm not really sure.

22 THE COURT: OK.

23 BY MR. RAO:

24 Q. Were you working on non-Vidivixi projects at the Sunset  
25 Park wood shop?

Fcldvidh

Bunda - cross

1 A. A few times, yes.

2 Q. And what were those?

3 A. The one time I can remember clearly was in the beginning we  
4 were working on stretcher canvases.

5 Q. When you say "we," who is the other person?

6 A. Primarily myself and Mr. Bradley.

7 Q. Do you know what those stretcher canvases were for?

8 A. They were for an artist.

9 Q. Were you ever paid for that work?

10 A. That, yes.

11 Q. Who paid you?

12 A. Francis Bradley.

13 Q. Any other non-Vidivixi work that you might have done at the  
14 wood shop?

15 A. More work along those lines, the canvas stretchers, various  
16 shapes and sizes depending on the artist's needs.

17 Q. How did you meet Mark Grattan?

18 A. I met him through Francis at Pratt University in the early  
19 2000s.

20 Q. You were a student at Pratt at the time?

21 A. No, I was not. I was just visiting.

22 Q. I see. Were you there visiting Mr. Bradley?

23 A. Yes.

24 Q. Did you ever meet Mark in the context of -- or withdrawn.

25 How did you first meet Mark in the context of

Fcldvidh

Bunda - cross

1 Vidivixi?

2 A. Well, I mean, we had already known each other for several  
3 years at that point. I guess the first time where that would  
4 have been with Vidivixi would have been about two years ago,  
5 two and a half maybe.

6 Q. And did you -- what was your understanding of Vidivixi or  
7 Mark's role in Vidivixi?

8 A. That it was a collaboration furniture business.

9 Q. You also testified earlier that you were hoping to receive  
10 some equity in Vidivixi, is that correct?

11 A. Eventually, yes.

12 Q. Had you had any conversations with Mark about equity in  
13 Vidivixi?

14 A. Not specifically.

15 Q. Did you have any conversations with Mr. Bradley about  
16 equity in Vidivixi?

17 A. Not specifically.

18 Q. How is it that you came to understand that you might get  
19 equity in Vidivixi?

20 MR. PEK: Objection, your Honor. He is testifying for  
21 the witness.

22 THE COURT: Overruled.

23 A. I'm sorry, could you repeat?

24 Q. How did you come to think or understand that you might get  
25 equity in Vidivixi?

Fcldvidh

Bunda - cross

1 A. Well, my understanding was that it was a collaboration and  
2 that it was -- you know, once the company got to a point where  
3 it could sustain, you know, some type of division would be  
4 taken from there.

5 Q. Were there any documents or writings where you talked about  
6 equity in Vidivixi?

7 A. No. No writings, no.

8 Q. Did you ever have a Vidivixi email address?

9 A. No.

10 Q. You also testified earlier that you donated time to  
11 Vidivixi, is that correct?

12 A. Yes.

13 Q. So just so I can be clear, there was time that you were  
14 compensated for and time that you were not compensated for, is  
15 that correct?

16 A. Correct.

17 Q. Approximately how much time would you say? Is it 50/50, or  
18 what proportion do you think between the two?

19 A. I would say more along the lines of 70/30, 70 being the  
20 part that I was not compensated for.

21 Q. Got it. You also --

22 THE COURT: I'm sorry. Someone did compensate you for  
23 some of your time working on projects?

24 THE WITNESS: Yes, sir.

25 THE COURT: OK. Who paid you?

Fcldvidh

Bunda - cross

1 THE WITNESS: It was Francis Bradley.

2 THE COURT: OK.

3 BY MR. RAO:

4 Q. And I believe you testified earlier that your understanding  
5 as to the Vidivixi furniture was that it was not sale ready, is  
6 that correct?

7 A. Meaning -- I'm sorry. I don't understand.

8 Q. You were asked by counsel whether these were prototypes or  
9 ready for sale and I believe you testified they were  
10 prototypes, is that correct?

11 A. Correct. Yes.

12 Q. Did you have any expectation of when Vidivixi would have,  
13 for lack of a better word, money coming in?

14 A. I was hoping sooner rather than later but I think everyone  
15 does that in their line of work.

16 Q. Why did you think that money would come in if you believed  
17 that the furniture were prototypes and not ready for sale?

18 A. I was hoping that these prototypes pieces would spark  
19 interest for people to buy them. That was where I thought --  
20 it wasn't through the sale of these individual pieces.

21 THE COURT: OK. I have a criminal matter. I'm sorry,  
22 Mr. Bunda, to interrupt your testimony again but I have to give  
23 priority to the criminal matter and we will resume your  
24 testimony. So, thank you.

25 Before the parties leave in Vidivixi -- no, Mr. Bunda,

Fcldvidh

Bunda - cross

1 you can go to the witness room -- I should point out, this is  
2 supposed to be an evidentiary hearing on a motion for a  
3 preliminary injunction. So you would expect that the testimony  
4 that's elicited is very relevant to the issues on the  
5 preliminary injunction motion. This is not a time for  
6 discovery depositions in the guise of testimony. So I just lay  
7 that out for both sides.

8 You have used a substantial part of the day and we'll  
9 continue later today and then we'll continue tomorrow, but I  
10 just tell you that the examinations could be more focused with  
11 respect to the issues that are particularly relevant to the  
12 motion for preliminary injunction.

13 All right.

14 MR. RAO: I understand, your Honor.

15 (Recess)

16 (Continued on next page)

17  
18  
19  
20  
21  
22  
23  
24  
25

Fcldvid4

Bunda - cross

1 THE COURT: Good afternoon, all. Please be seated.

2 Mr. Bunda is on the stand. Mr. Fletcher.

3 THE CLERK: Mr. Bunda, you are reminded you are still  
4 under oath.

5 THE WITNESS: Yes, sir.

6 THE COURT: Mr. Rao.

7 MR. RAO: I just have a few more questions, your  
8 Honor.

9 CROSS-EXAMINATION (Resumed)

10 BY MR. RAO:

11 Q. Mr. Bunda, you previously testified you worked  
12 approximately 60 hours a week on Vidivixi, is that correct?

13 A. Correct.

14 Q. And that you split your time, as I recall, 60 percent in  
15 the Stewart Avenue studio and 40 percent in the wood shop,  
16 roughly?

17 A. Roughly, yes.

18 Q. So about 30 to 40 hours a week in the wood shop would be --  
19 that would be the amount of time you would have spent, is that  
20 correct?

21 A. In the wood -- no, well, you are talking about the Sunset  
22 Park wood shop, correct?

23 Q. Correct, yes.

24 A. So out of the 60-hour week, if I was there 40 percent of  
25 the time, it would be 20 hours maybe; I mean, depending on the



Fcldvid4

Bunda - cross

1 week and the job, depending on where we were.

2 Q. Sure. Over the two years, approximately, how many times  
3 would you say that you went to the wood shop to work on  
4 Vidivixi projects?

5 A. Ah, over in total over the two years, I don't know, 80  
6 times maybe.

7 THE COURT: How many?

8 THE WITNESS: 80 maybe. You know, I mean if you count  
9 a day as one time, then it might be different. But I mean, I  
10 had gone back and forth there, you know, throughout the day,  
11 you know, sometimes two or three times a day if we are picking  
12 up supplies or, you know, depending on whatever the needs were  
13 transporting.

14 BY MR. RAO:

15 Q. I understand. You had testified earlier that you did not  
16 attend Pratt. Where did you attend college?

17 A. I attended a couple of semesters at Bergen Community  
18 College in Paramus, New Jersey, and a year and a half at the  
19 Community College of Rhode Island.

20 Q. And what was your -- what's your --

21 A. I was liberal arts.

22 Q. Liberal arts. So you are not a sculptor?

23 THE COURT: Liberal arts, OK.

24 Q. You are not a sculptor, is that correct?

25 A. Well, not by trade, no.

Fcldvid4

Bunda - cross

1 Q. Or a designer?

2 A. No.

3 Q. An architect?

4 A. No.

5 Q. No, OK.

6 MR. RAO: No further questions, your Honor.

7 THE COURT: Mr. Bunda, you worked 60 hours a week over  
8 three days?

9 THE WITNESS: Yes, sir.

10 THE COURT: That's 20 hours a day.

11 THE WITNESS: Yes, sir.

12 THE COURT: Did you live close to the wood shop?

13 THE WITNESS: I live in Belmar, New Jersey, which is  
14 roughly 70 miles from here.

15 THE COURT: So it took you over an hour to -- did you  
16 drive?

17 THE WITNESS: Yes, sir.

18 THE COURT: So 20 hours a day and over two hours of  
19 driving?

20 THE WITNESS: A lot of times I would come into the  
21 city on a Tuesday and I wouldn't leave until the Thursday. So  
22 the traveling to and from New Jersey most times was limited to  
23 once a week, but I would stay the entire time in the city.

24 THE COURT: And you slept four hours a night?

25 THE WITNESS: If I was lucky, yes, sir.

Fcldvid4

Benezra - direct

1 THE COURT: OK. All right. Anything else?

2 MR. PEK: No redirect, your Honor.

3 THE COURT: OK. Thank you, Mr. Bunda. You may step  
4 down.

5 THE WITNESS: Thank you.

6 (Witness excused)

7 THE COURT: The parties have agreed that Mr. Rao can  
8 call some witnesses out of order, so go ahead.

9 MR. RAO: Yes, your Honor. We -- defendants would  
10 like to call Amy Benezra to the witness stand.

11 AMY BENEZRA,

12 called as a witness by the defendants,

13 having been duly sworn, testified as follows:

14 THE CLERK: You may be seated.

15 Please state your full name for the record.

16 THE WITNESS: Amy Benezra.

17 THE CLERK: Spell your last name.

18 THE WITNESS: B-e-n-e-z-r-a.

19 THE CLERK: Thank you.

20 THE COURT: All right. Mr. Rao, you may examine.

21 DIRECT EXAMINATION

22 BY MR. RAO:

23 Q. Good afternoon. To start, how did you -- do you know Mark  
24 Grattan, the defendant in this action?

25 A. Yes, I do.

Fcldvid4

Benezra - direct

1 Q. How did you first come to know Mr. Grattan?

2 A. I met Mark at Walter Goodman's shop where I was a tenant.

3 It was probably three years ago, roughly. Mark was my neighbor  
4 there, my immediate next-bay neighbor. So we worked in close  
5 proximity separated by my clamp rack, basically.

6 Q. And how long were you at Walter Goodman's wood shop?

7 A. About three years, two and a half, three. Mark was already  
8 there when I got there.

9 Q. I understand. And what's your professional background?

10 A. I'm a professional woodworker. I have been for 40-plus  
11 years, and I make furniture, I build kitchens, do architectural  
12 woodwork and specialize in art fabrication.

13 Q. And do you know the circumstances that led Mark to rent  
14 space in Walter Goodman's wood shop?

15 A. No, I don't.

16 Q. But you said you were neighbors or you shared bays, is that  
17 correct?

18 A. Yeah, Mark had the space -- it is an open shop. There are  
19 separate bays, as they are called. Each bay encompasses a few  
20 windows but there are no walls between. So people have their  
21 individual space and we share the machinery, which is in the  
22 middle. I'm not there now; I left in August. But there are  
23 no -- you work in close proximity to people, but you could be  
24 across the shop from certain of your colleagues but Mark was in  
25 the bay right next to mine.

Fcldvid4

Benezra - direct

1 Q. I see. So when or roughly what times of the day or week  
2 would you be in the wood shop?

3 A. I would be there mostly during the day, but I would arrive  
4 kind of late and I would work usually until about 8 or 9. I  
5 worked on weekends very often. Sometimes if I had an art  
6 fabrication that had to go, I would have to be there late into  
7 the night and, you know, kind of funny hours, different from  
8 some of the other people, because the fabrication world is such  
9 that if the show is going to open, the work has to be there.  
10 So I'd be there funny hours.

11 Q. Did you observe what hours Mark kept at the wood shop?

12 A. Say that again.

13 Q. Did you know what hours Mark kept at the wood shop?

14 A. Oh, yeah. Mark kept very similar hours to mine.

15 Q. I see.

16 A. In fact, if I went on a Sunday, Mark would be there  
17 invariably, and he was there often very late into the night.

18 Q. Do you know Mr. Tim Bradley or Mr. Francis Bradley, the  
19 plaintiff in this action?

20 A. I met him. I was introduced to Tim by Mark at the shop.  
21 He was introduced to me as his partner.

22 Q. And what did you understand that to mean?

23 A. They were in business together, and as I understood it,  
24 Mark designed and built the furniture and Tim came by  
25 occasionally. I don't know what he actually did. I never saw

Fcldvid4

Benezra - direct

1 him -- he would talk to Mark, but the description given to me  
2 by Mark was that Tim was the producer and he paid for stuff.

3 Q. Did you ever observe Tim operate the machinery in the wood  
4 shop?

5 A. No, never. Tim wouldn't have been allowed to use the  
6 machinery in our shop. He wasn't a tenant there.

7 Q. You stated earlier that the machinery was centrally  
8 located, is that correct?

9 A. Right.

10 Q. Was it visible to anybody else in the shop?

11 A. Oh, sure. Visible to everyone else in the shop. Whoever  
12 was on a machine could easily be seen by anyone in any of the  
13 bays that surrounded the central machinery.

14 Q. I see. Is that because of the layout of the shop?

15 A. Yeah, it's because you want basically the bays to have  
16 windows. It's more pleasant for the individual workers. The  
17 machinery is in the middle because logistically things move  
18 better that way.

19 Q. How often was Tim at the wood shop in Sunset Park -- sorry,  
20 Mr. Bradley?

21 A. How often? I saw him there maybe like a dozen times over  
22 three years, if that.

23 Q. I see. Typically what did you see him doing when he was at  
24 the wood shop?

25 A. Talking with Mark. Usually looking at a thing, deciding

Fcldvid4

Benezra - direct

1 whether it worked for whatever it was going to, and sometimes  
2 he would help him wrap stuff. He may have put finish on things  
3 when they were in a hurry to get something to a show. I think  
4 I have seen him put finish on stuff.

5 Q. Had you ever heard the term "Vidivixi" before today?

6 A. Yeah, sure. That was Mark's and Tim's company, as I  
7 understood it.

8 Q. And when did you first hear about Vidivixi?

9 A. From Mark. Just in chatting, I asked him the name of his  
10 company or -- oh, no. It was one of his first shows and I was  
11 going to see the show, and he told me which booth it would be  
12 in and so he told me the name was Vidivixi. That was how I was  
13 going to locate it at wherever it was.

14 Q. Do you remember what show that was?

15 A. I think the first one was at -- well, I think this one was  
16 at the Javits. The first one I saw was at the Industry City  
17 gallery.

18 THE COURT: I'm sorry, it was where?

19 THE WITNESS: Javits Center.

20 THE COURT: Oh, the Javits Center?

21 THE WITNESS: Yeah.

22 Q. And when was that?

23 A. I don't remember. A year ago?

24 Q. Did you talk to Mark occasionally about his work?  
25 Frequently? How often?

Fcldvid4

Benezra - direct

1 A. Oh, daily.

2 Q. What do you recall Mark working on in the wood shop?

3 A. Mark made a lot of furniture pieces. He made a number of  
4 beds, chairs. He made a bar for the Javits Center show that  
5 was quite beautiful, and then he took elements of that bar and  
6 put it horizontally into a couch; I remember that. That was a  
7 very beautiful element and he turned it sideways but then  
8 didn't like it and scrapped it and did something else with it.  
9 But he made mostly furniture.

10 Q. How often would Mark -- you said he didn't like that piece  
11 and scrapped it. How often would that happen?

12 A. Very often. Mark would -- Mark would produce a piece. He  
13 would put in incredible hours. We would talk about it. That's  
14 what woodworkers do with each other. Whoever is there could be  
15 called upon to give an opinion about was this proportioned  
16 nice, what do you think of this color. And I was there a lot  
17 alone with Mark because we kept the same hours. And, yes, I  
18 have seen him scrap something entirely, have, you know, have  
19 parts up to here, decide that he didn't like an element, scrap  
20 the thing and start something again at 11 o'clock that was  
21 going to go out the next day.

22 Q. And what would that then entail in terms of working hours?

23 A. Oh, he probably stayed all night whereas I did not. I  
24 would leave maybe at midnight. I would leave Mark there many,  
25 many nights and he would stay and I'd see him the next day. He



Fcldvid4

Benezra - direct

1 looked tired but the thing got done overnight and it went.

2 Q. And when you would observe Mark critiquing or scrapping one  
3 of his own projects, do you recall if he consulted with  
4 Mr. Bradley about design changes?

5 A. Not in my experience. No one else was there. Maybe he  
6 called him, I don't know. He would ask me. He would ask  
7 Graham, another woodworker. He would ask whoever was there.  
8 And he would eventually make the decision and proceed. I don't  
9 know whether Tim was involved in that. Tim wouldn't be there.

10 Q. Did you ever see anybody come by the wood shop who was  
11 interested in buying a Vidivixi piece?

12 A. I wouldn't know. If Mark had clients over -- this was the  
13 case. The etiquette in the shop was that if you had clients  
14 over, you just don't enter and bother them at that point. So  
15 you can't hear the conversations. The shop is loud. So I have  
16 no idea. I mean, he had lots of visitors, yeah. He had people  
17 looking like clients. He had some people he then described to  
18 me later had been clients, but whether they were buying things  
19 I have no idea.

20 Q. Did Mark ever talk about work outside of Vidivixi or  
21 separate from Vidivixi?

22 A. Yeah. He made some things for other designers. He  
23 fabricated occasionally things that he didn't particularly like  
24 but had to earn money. So, yeah, he made things outside of  
25 that.

Fcldvid4

Benezra - cross

1 He made his own things, too. I mean, he -- you know,  
2 he played with stuff because he was designing stuff. So he  
3 would make his own piece, look at it, not like it, decide not  
4 to make it, to change it. You know, he was --

5 Q. So he was tinkering, is that --

6 A. Yeah, he was working.

7 Q. How often would you say that the woodworkers in the shop  
8 would talk about their work?

9 A. All the time, actually. I mean, intermittently but it's  
10 ongoing, and it's a process everyone engages in. It's nice to  
11 have another set of eyes on something. So you would go to your  
12 colleague, call the person over, what do you think of this, do  
13 you like this dimension; that happens a lot.

14 MR. RAO: Just one minute, your Honor.

15 (Pause)

16 No further questions, your Honor.

17 THE COURT: All right. Mr. Pek, you may examine.

18 CROSS-EXAMINATION

19 BY MR. PEK:

20 Q. Good afternoon, Ms. Benezra, is it?

21 A. Yes. Good afternoon.

22 Q. How do you do? Just a few quick questions.

23 You mentioned that you are no longer renting a bay at  
24 Walter Goodman's shop, is that right?

25 A. No. I moved in mid-September.

Fcldvid4

Benezra - cross

1 Q. Why did you move?

2 A. Sunset Park was a long commute for me. I found something  
3 closer to where I live in Ridgewood, and the rent went up at  
4 Walter's.

5 Q. Is the rent at Walter's uniform or is it based on the size  
6 of the bay?

7 A. It's based on the size of the bay.

8 Q. So you were immediately adjacent to Mark's bay, is that  
9 right?

10 A. Yeah.

11 Q. OK.

12 A. I had a half bay right next to Mark's bay.

13 Q. You testified earlier that you are aware of Tim Bradley and  
14 you did see him on occasion visiting with Mark, is that right?

15 A. Sure. We chatted.

16 Q. I'm just curious. It sounds like it is a very loud wood  
17 shop and people are into their wood making. How were these  
18 conversations taking place so readily?

19 A. You can hear people. If you are in their bay you can talk  
20 to them. If someone is on the saw, you might wait. If all the  
21 machines are busy, it is louder. They are not usually all busy  
22 at the same time.

23 Q. You mentioned that you had seen on occasion, I believe,  
24 Mr. Bradley applying some finish to some piece of work?

25 A. Yeah. I couldn't be exactly sure, but, yeah, that's how it

Fcldvid4

Benezra - cross

1 looked. He may have been dusting something. I've seen him  
2 wrap things with Mark.

3 Q. "Wrap" meaning a finished product insofar as the wood  
4 working is done for --

5 A. Yeah. A finished piece would be wrapped because it was  
6 leaving.

7 Q. Is it permissible under Walter's policy in Sunset Park to  
8 keep and store finished pieces in the bay?

9 A. You can do whatever you want in your bay if you have room.

10 Q. Are not some bays shared?

11 A. You do it in your part of the bay.

12 Q. You also mentioned that you typically would see Mark on  
13 Sundays?

14 A. Yes.

15 Q. Or more often on Sunday, is that fair?

16 A. Not more often, but if I worked on a Sunday I would hope  
17 that it would be quiet but invariably Mark would be there.

18 Q. You also said that you spoke with him daily. So I'm just  
19 trying to ascertain if it was every Sunday or just whenever you  
20 all --

21 A. Oh, no. He was there every day, pretty much every day,  
22 also on weekends.

23 Q. Were you there every day?

24 A. Almost. Sometimes, yeah. Yes, I worked a lot. Sometimes  
25 a piece has to go out; that's what puts you there on weekends

Fcldvid4

Benezra - cross

1 as well as during the week.

2 Q. So is it safe to say it's fairly customary in this somewhat  
3 of a niche market of woodworkers to -- if there is a deadline  
4 and there are some pieces to go out, time of day doesn't apply,  
5 meaning people will work through the night and that's not  
6 uncommon?

7 A. Some people will, yeah. I have. I'm sure Mark has, I  
8 know. I mean, I used to do more when I was younger but, yeah,  
9 it does happen.

10 Q. You also mentioned that in the event that a client, I think  
11 as you described yourself or Mark renting a bay from Walter,  
12 had a visitor such as Tim, you kind of let them be and not  
13 intrude?

14 A. Yes. If it clearly looked like business --

15 Q. Oh, OK.

16 A. -- yeah. You don't...

17 Q. Understood. I just wanted to --

18 A. Mm-hmm.

19 Q. You mentioned that Mark had lots of visitors. I'm trying  
20 to understand, did you speak with these visitors?

21 A. Not "lots." He had, you know, occasional visitors. He  
22 didn't have more than the other people have.

23 Q. So is it your -- in your experience, as a professional  
24 woodworker, wood maker -- I'm sorry if I am not getting that  
25 right -- is it fairly customary for other workers that are

Fcldvid4

Benezra - cross

1 working in conjunction with a woodworker who may be doing some  
2 other facet, upholstery, for example, to come in, interface,  
3 and maybe talk about the project; is that how it goes  
4 because --

5 A. Well, if you have an upholsterer, you are bringing the  
6 thing to the upholsterer. If you are using a finisher, you are  
7 sending the thing to the finisher. So, no, they don't come to  
8 our shop. If you've hired someone to help you, they come.

9 Q. Was it your impression that Mark had hired Tim?

10 A. No. He said he was his partner.

11 Q. And are you -- you were renting your bay in connection with  
12 a business that you owned, or just was it a hobby or just --

13 A. No. No. I am a professional. I have been doing this for  
14 about 40 years.

15 Q. And still doing it just elsewhere?

16 A. Yes.

17 Q. Do you keep in touch with Mark?

18 A. Yes.

19 Q. Am I correctly understanding that you still speak with him  
20 daily?

21 A. No.

22 Q. OK.

23 A. No, I'm not in his shop anymore, so no. But occasionally I  
24 get an email from him if he has a piece that he doesn't want to  
25 make, he might send it to me, ask me if I know someone who

Fcldvid4

Benezra - cross

1 could make it, or just how are you, how is the new shop.

2 Q. Why do you suppose Mark scrapped so many pieces?

3 A. He didn't like the way they looked.

4 Q. Do you attribute that to a sense of perfectionism or is he  
5 a perfectionist?

6 A. I think it is a way that some people have of designing  
7 while they are working because some things don't translate from  
8 paper to the object, you have to make a part and look at it,  
9 and he did that a lot.

10 Q. Does wood itself come with a lease or do you have to  
11 provide --

12 A. No. You have to buy your own material.

13 Q. OK. That makes sense.

14 Did you ever have any conversations with Mr. Bradley?

15 A. Sure. I understood he was an artist. We chatted a little  
16 bit. He seemed very nice.

17 Q. You mentioned that Mark was apparently always at work.  
18 Whether at work or play, he was always at the wheel, so to  
19 speak, or regularly enough as much as you.

20 A. More than me, actually. Mark I could say was there more  
21 than I was.

22 Q. Were I to visit you while you were there --

23 A. Mm-hmm.

24 Q. -- would I have to sign a waiver under Walter's rules?

25 A. Just to come in and visit me?

Fcldvid4

1 Q. Yeah.

2 A. To look at something I was making for you, you mean? No.

3 Q. I mean, I imagine a wood shop is an open-area wood shop,  
4 that one would most likely have to wear goggles and maybe --

5 A. No, you don't need goggles unless you are on a machine and  
6 even that is up to you. You don't need hearing protection if  
7 you are happy to lose your hearing; that is up to you. But if  
8 you are coming in to look at something I am making for you, you  
9 just walk into my space, we look at it, we talk about it and  
10 then you leave because --

11 Q. And you would have clients of yours routinely come in,  
12 check in about the work?

13 A. Sure. Now and then, yeah.

14 Q. Had you ever spoken with Mark Grattan about Mark Grattan  
15 Design & Build?

16 A. Not really.

17 MR. PEK: No further questions, your Honor. Thank  
18 you.

19 THE COURT: All right. No further questions. The  
20 witness is excused.

21 THE WITNESS: Thank you.

22 THE COURT: You may step down.

23 (Witness excused)

24 THE COURT: Call your next witness.

25 MR. RAO: Your Honor, defendants call Richard Wright



Fcldvid4

Wright - direct

1 to the stand.

2 RICHARD WRIGHT,

3 called as a witness by the defendants,

4 having been duly sworn, testified as follows:

5 THE CLERK: You may be seated.

6 Please state your full name for the record.

7 THE WITNESS: Richard Hugh Wright.

8 THE CLERK: Spell your last name.

9 THE WITNESS: W-r-i-g-h-t.

10 THE CLERK: Thank you.

11 THE COURT: All right. Mr. Rao, you may examine.

12 DIRECT EXAMINATION

13 BY MR. RAO:

14 Q. Mr. Wright, can you describe your educational background?

15 A. I'm a high school graduate, two years of college,

16 Philadelphia College of Art. That's it.

17 Q. And can you describe your professional background?

18 A. Yes. Since 1978 I have been doing woodworking for a

19 living. I went to school for furniture design and building and

20 have been pursuing that ever since. I work also full-time at

21 NBC as a carpenter and a stagehand. In the shop where I met

22 Mark I have been in for over 25 years also. So I do side jobs

23 there and work full-time for the last 20 years at NBC.

24 Q. Is the shop you are referring to in Sunset Park in

25 Brooklyn?

Fcldvid4

Wright - direct

1 A. Yes. Sunset Park Woodworkers.

2 Q. Do you rent space there --

3 A. Yes.

4 Q. -- from Walter Goodman?

5 A. Yes.

6 Q. And you --

7 THE COURT: Could you keep your voice up, Mr. Wright?  
8 Maybe move your chair in to the microphone.

9 THE WITNESS: Sure.

10 Q. You mentioned that you've been there for 25 years?

11 A. Yeah.

12 Q. Are you still there?

13 A. Yes.

14 Q. When -- what times of the day or week are you in the wood  
15 shop?

16 A. I'm usually there at night because I work on what's called  
17 the night crew at NBC so my regular hours are 4 to midnight, so  
18 I often go to the shop after that. So I'll be in the shop from  
19 like 12:30, 1 o'clock until 5 or 6 in the morning often and on  
20 weekends often.

21 Q. How did you first meet -- or, sorry, you mentioned that  
22 you've met Mark Grattan?

23 A. Yeah. I met Mark at the shop. I never knew him -- oh,  
24 there he goes. I never knew Mark prior to the shop, and I get  
25 friendly with Mark in the shop. I mean, I've never gone out

Fcldvid4

Wright - direct

1 with him or had a meal with him or anything like that. Just my  
2 relationship has strictly been at the shop.

3 Q. When did you first meet Mark in the shop?

4 A. Oh, probably over two years ago. Right around the time  
5 when he first started renting. Actually, I don't remember  
6 exactly when he started. It's been at least a couple of years.

7 Q. Did you ever meet Mr. Francis Bradley or Tim Bradley?

8 A. Several times at the shop.

9 Q. And how many times do you recall Mr. Bradley being in the  
10 shop?

11 A. Oh, I don't know, six or seven, maybe, at least.

12 Q. Over what time period?

13 A. Over the last year or so.

14 Q. Have you ever spoken to Mr. Bradley?

15 A. I actually spoke to him once at length and that was it. I  
16 mean, I spoke to him just hello, how are you doing, off and on,  
17 but only really one time to any length.

18 Q. Did you understand there to be any kind of relationship  
19 between Mr. Grattan and Mr. Bradley?

20 A. Well, he introduced himself as Mark's partner and with the  
21 understanding that it was a business relationship.

22 Q. Do you know what that business was?

23 A. Mark designs furniture and Tim was involved with that.

24 Q. Did you ever hear the name Vidivixi?

25 A. I didn't until recently.

Fcldvid4

Wright - direct

1 Q. You mentioned speaking with Tim at length, or, sorry,  
2 Mr. Bradley at length once. What was the nature of that  
3 conversation?

4 A. Mainly just a little history of him, of his. He actually  
5 was telling interesting stories about artists in Europe. He  
6 had been to Europe. He told me he was in mixed media. He said  
7 artwork, mixed media, which I really wasn't familiar with and  
8 didn't get much of an explanation. And then just a little bit  
9 about him and Mark, and my understanding was they, you know,  
10 were partners in this business but --

11 Q. You mentioned about six or seven times seeing him in the  
12 shop, is that correct?

13 A. Yeah. Usually --

14 Q. Go ahead.

15 A. Usually it was a situation where they were like making mad  
16 dashes to get work done, trying to finish projects like prior  
17 to a show or something like that.

18 Q. So you would see Mr. Bradley when a deadline was looming?

19 A. Yes.

20 Q. What did you see him do mostly?

21 A. Mostly smoke pot and hang out.

22 Q. Did he operate machinery in the shop?

23 A. I never saw him on a piece of machinery.

24 Q. Did you ever see him doing any design or fabrication work  
25 with the furniture?

Fcldvid4

Wright - direct

1 A. No. The only work I ever saw him do was paint a black  
2 finish onto some furniture that was made.

3 Q. How often did you see Mark at the shop?

4 A. Oh, he was there every day.

5 Q. And --

6 A. And often late. So when I would come late Mark would be  
7 there by himself.

8 Q. What would you see Mark or Mr. Grattan doing?

9 A. With Mark?

10 Q. Mm-hmm.

11 A. Mark did all the building as far as I could see. He would  
12 build everything. He -- you know, we would actually discuss  
13 designs now and then.

14 Q. Did Mark ever identify work as Vidivixi work?

15 A. No. It was just -- no. The understanding was it was just  
16 Mark's designs and Mark's building.

17 Q. Did you ever see Mr. Grattan consulting with Mr. Bradley  
18 about design elements for a piece of furniture?

19 A. No, I didn't. I don't know if it happened. I didn't --  
20 you know, I mean, I'd be in my space and they'd be in their  
21 space.

22 Q. Did you ever see Mark operating machinery in the wood shop?

23 A. Oh, of course, yeah. He cut everything. He put everything  
24 together.

25 Q. Are you aware of any policies in the wood shop about who

Fcldvid4

Wright - cross

1 can operate machinery?

2 A. Yeah. I mean, basically the only ones who could operate  
3 machinery are people that are qualified and people that are  
4 there all the time. Yeah.

5 Q. Do you recall anybody by the name of Anthony Bunda or Tony  
6 Bunda?

7 A. No.

8 MR. RAO: Just one minute.

9 (Pause)

10 No further questions, your Honor.

11 THE COURT: All right.

12 CROSS-EXAMINATION

13 BY MR. PEK:

14 Q. Good afternoon, Mr. Wright.

15 A. Hi.

16 Q. Just a few quick questions.

17 You mentioned by memory you noticed or saw, witnessed  
18 Tim Bradley six or seven times in the last two years in the  
19 shop?

20 A. Yeah, I guess. It could have been more.

21 Q. And you're still renting a bay?

22 A. Yes.

23 Q. Are you friendly with Walter Goodman?

24 A. Yes. He's one of my best friends.

25 Q. Is that right?

Fcldvid4

Wright - cross

1 Did you have any conversations with Mark Grattan or  
2 Sid Rao prior to today in connection with this hearing?

3 A. Yes.

4 Q. And what was the nature of those conversations?

5 A. Mainly logistics. Mainly telling me that I would be  
6 testifying way before now. That's about it as with his -- with  
7 Mark's lawyer.

8 With Mark I had very rough outlines of what was going  
9 on, and none of that was recent. I mean, he told me in general  
10 what was going on quite a while ago but not really many  
11 details.

12 Q. Are you testifying today -- is the testimony you are giving  
13 today based on your own firsthand personal knowledge?

14 A. Yes.

15 Q. OK. You mentioned that they, being Tim and Mark as I  
16 understood your testimony, were making -- would be -- you had  
17 seen them making mad dashes to make a deadline for a show,  
18 presumably?

19 A. Yeah.

20 Q. That seemed to be fairly routine among the woodworkers over  
21 there, is that right?

22 A. Unless you are very good at planning and you are able to,  
23 you know, get a head start on all of this stuff.

24 Q. How old are you, Mr. Wright?

25 A. I'm 60.

Fcldvid4

Wright - cross

1 Q. And you met Mark at the shop about two years ago or  
2 two-plus?

3 A. Yeah, whenever he moved in. I actually don't remember how  
4 long it has been. Two or three years.

5 Q. You have been there longer. You were there when he --

6 A. I've been there almost 30 years.

7 Q. 30 years. Are you fairly familiar with the Sunset rules  
8 and policies?

9 A. Oh, yeah.

10 Q. So how is it that the waiver works? Can I go in there and  
11 visit you if I wanted to by signing a waiver and strapping on  
12 some eye protection?

13 A. Are you talking about visiting me or working on machinery?

14 Q. I'm talking about entering this open space that seems very  
15 dangerous, but just to visit or let's say I were to  
16 commission -- ask you to fashion me a bird house.

17 A. I have often had clients in there that were looking -- that  
18 I was showing them where the shop was and showing them examples  
19 of my work, yeah.

20 Q. Are there any supervisors on hand at the shop?

21 A. There's nobody there who is a supervisor per se.

22 Q. Is there any clock-in mechanism, any ledger to record when  
23 somebody, when you check in?

24 A. No.

25 Q. Is Walter at the shop most days?



Fcldvid4

Wright - cross

1 A. Pretty much every day, yeah. I mean, not necessarily every  
2 weekend but, sure, he's there as much or more than anyone else.

3 Q. Would you say that you have known him to be there in the  
4 late hours of the night or the early hours of the morning?

5 A. If you are saying could somebody come in and use the  
6 machinery and Walter or I or somebody else wouldn't know about  
7 it? I suppose that's true, if that's what you are getting at.

8 Q. I actually wasn't but that's helpful to know. I am just  
9 wondering if Walter himself --

10 A. He's there often late but not as late as I am. On a  
11 regular basis, I am there quite late.

12 Q. What do you understand to be -- you mentioned -- you used  
13 the word "qualified" earlier as being a prerequisite or --

14 A. If somebody came into the shop and wanted to rent equipment  
15 and did not have experience working on the machinery, they  
16 would not be allowed to use the equipment. They wouldn't be  
17 rented the space and they wouldn't have had it.

18 The only way Mark got a place there was by showing  
19 Walter that he knew what he was doing. And if in the early  
20 days of him being there if it was obvious that he didn't know  
21 what he was doing, he would not have been welcome to stay.

22 Q. Is there some sort of audition process to demonstrate, you  
23 know, a certain skill to Walter so for maybe liability purposes  
24 on Walter's end?

25 A. Yeah, I would think so.

Fcldvid4

Wright - cross

1 Q. Did you have to --

2 A. I've know Walter since I was in my 20's so the answer is  
3 no.

4 Q. That doesn't necessarily mean that you, you know --

5 A. I have been doing this all of my life. I've shown Walter a  
6 few things.

7 Q. Is your bay close to Mark Grattan's bay?

8 A. Yes.

9 Q. You said you see him there all the time. When are you  
10 there?

11 A. I don't see -- I don't see him all the time that he's there  
12 I do not see him. I often see him when I'm there late because  
13 he is often there late.

14 Q. And have you ever seen Tim Bradley there?

15 A. I believe I already said I saw him six times at least.

16 Q. Forgive me. Right you are. And --

17 THE COURT: Six or seven but it could be more.

18 THE WITNESS: Yes.

19 Q. Six or seven and it could be more.

20 Did you also say that you've seen him applying finish  
21 or painting or something of nature?

22 A. Yes.

23 Q. Rather than just idling around?

24 A. Out of the six or seven times, once I saw him helping put  
25 on finish to some pieces they were trying to get out. I've

Fcldvid4

Wright - cross

1 never seen him work a piece of machinery.

2 Q. How is it that you understand Mr. Bradley to be smoking pot  
3 in the --

4 A. Because he was smoking pot. It is very difficult not to  
5 smell it these days.

6 Q. And is that customary, in your estimation?

7 A. No, not at all.

8 Q. And you know for a certainty that this was pot and this was  
9 Tim Bradley and --

10 A. Yes.

11 Q. OK. Based on your experience with pot?

12 A. Yeah. I haven't smoked any in over 20 years. I have been  
13 sober for over 20 years, but I have quite an extensive history  
14 with pot prior to my 20 years of sobriety.

15 Q. Did Mark --

16 A. And I had a friend who was working with me once who smoked  
17 with him and was quite happy for having been there. But I  
18 personally don't smoke pot and haven't for actually it will be  
19 20 years this December.

20 Q. Isn't it true that Mark Grattan had smoked pot at the wood  
21 shop?

22 MR. RAO: Objection. Relevance.

23 THE COURT: Yes. Sustained.

24 A. I'm not really sure --

25 THE COURT: That is all right. I sustained it.

Fcldvid4

Wright - cross

1 THE WITNESS: Oh, sustained. I'm sorry.

2 BY MR. PEK:

3 Q. Are you still working, Mr. Write?

4 A. Am I still working?

5 Q. Yes.

6 A. Yes. I missed a day of work for this, as a matter of fact.

7 Yes, I am still working. I work full-time at NBC and I work  
8 part-time at the shop in Brooklyn.

9 Q. You mentioned earlier it could be possible that somebody  
10 could gain entry to the shop and use -- get their hands on a  
11 machine without yourself or Walter being the wiser?

12 A. No. My main point was that it would be very easy for me  
13 not to be aware since I am only there at odd hours. It would  
14 be very unusual for somebody to come in and use the machinery  
15 that isn't one of the major players there. If it isn't  
16 somebody who rents there, somebody who is there -- there is  
17 always somebody there. There is like, what, eight people, I  
18 guess, who are there all the time pretty much. They make their  
19 livings building things there. If somebody showed up who  
20 didn't know what he was doing and decided to start cutting  
21 stuff, it would never happen. The only way somebody is going  
22 to get on the machine is, first of all, if he is with somebody  
23 and there has already been a conversation with Walter that  
24 here's another person and he is qualified and, you know, like  
25 that.

Fcldvid4

Wright - cross

1 Q. When you rent a bay from Walter, do you get a key to the  
2 premises?

3 A. Yes.

4 Q. Without the key --

5 A. You can't get in. The door locks as when you shut it.  
6 Actually not so much lately because it is now -- the rents are  
7 much higher, there is more and more people, but especially in  
8 the early days it was a fairly dangerous neighborhood and we  
9 were always concerned of theft and, you know, who would get  
10 access and stuff like that. So up until very recently nobody  
11 is getting in there.

12 Q. Would it surprise you to learn that in fact the gentleman  
13 about whom Mr. Rao just asked you, Anthony Bunda, who doesn't  
14 rent a bay in fact has signed waivers and delivered them to  
15 Walter to --

16 A. Yeah, that would surprise me. But like I say, I'm not  
17 there during the day. I'm surprised that I hadn't heard about  
18 that from Walter but -- so I don't think he was there very  
19 often. If you're saying that somebody named Anthony, or  
20 whatever, was there quite often building stuff, I don't believe  
21 that.

22 Q. I am just asking.

23 MR. PEK: No further questions, your Honor.

24 Thank you, Mr. Wright.

25 THE WITNESS: OK.

Fcldvid4

Anderson - direct

1 THE COURT: All right. You are excused. You may step  
2 down.

3 (Witness excused)

4 THE COURT: Call your next witness.

5 MR. RAO: Your Honor, this is our last witness, Graham  
6 Anderson. Defendants call Graham Anderson to the stand.

7 GRAHAM ANDERSON,

8 called as a witness by the defendants,

9 having been duly sworn, testified as follows:

10 THE CLERK: You may be seated.

11 Please state your full name for the record.

12 THE WITNESS: Graham Anderson.

13 THE CLERK: Did you say Gray?

14 THE WITNESS: Graham.

15 THE CLERK: Graham, OK.

16 THE WITNESS: G-r-a-h-a-m.

17 THE CLERK: And then Anderson?

18 THE WITNESS: Yes.

19 THE COURT: How do you spell Anderson?

20 THE WITNESS: A-n-d-e-r-s-o-n.

21 THE COURT: All right. Mr. Rao, you may examine.

22 DIRECT EXAMINATION

23 BY MR. RAO:

24 Q. Good evening, Mr. Anderson, and thank you for your  
25 patience.

Fcldvid4

Anderson - direct

1 Just to start, do you know Mark Grattan, who is the  
2 defendant in this action?

3 (Pause)

4 Do you know Mark Grattan, who is the defendant in this  
5 action?

6 A. Yes.

7 Q. How do you know Mark Grattan?

8 A. I first met Mark when my colleague Amy Benezra introduced  
9 me to Mark because Mark was renting workshop space and I was  
10 looking for workshop space. I had recently become independent  
11 as a cabinetmaker after working for different companies for a  
12 couple of years. I was looking for a space and Amy introduced  
13 me to Mark and I started subletting from him. I started  
14 renting space with him in this workshop.

15 Q. And around when was that?

16 A. This was like -- it was two years ago.

17 Q. OK. And are you still at the wood shop in Sunset Park?

18 A. No. I left in August.

19 Q. So did you share a bay with Mr. Grattan?

20 A. I did, yeah, for just about a month, a month and a half, at  
21 the very start of me working in that wood shop two years ago.

22 Q. And then where did you go after that?

23 A. Well, so I was still in the wood shop but I was working  
24 different days in that shop. So over a span of two years I was  
25 separated from Mark and I started renting from Amy for a little

Fcldvid4

Anderson - direct

1 while, and then I was renting directly from Walter Goodman, who  
2 is the guy who organizes the shop.

3 Q. What do you do professionally?

4 A. I am a cabinetmaker.

5 Q. And how long have you been a cabinetmaker?

6 A. For about 12 years.

7 Q. Did you -- where did you go to school?

8 A. I went to Cooper Union.

9 Q. Did you study anything relating to cabinet making?

10 A. Well, no, I studied fine art but there was a lot of  
11 instruction in woodworking when I was there, something they  
12 want you to get to know because they figure it intersects with  
13 fine art making in all kinds of ways.

14 Q. So would you say you are a professional woodworker?

15 A. Yes. Absolutely.

16 Q. During your time at the shop did you ever observe Mark to  
17 be there?

18 A. Yes.

19 Q. And around -- what, you know, how frequently was Mark in  
20 the shop?

21 A. Oh, Mark was there pretty much every day. And, yes, he was  
22 pretty much there every day, yeah, working --

23 Q. And when were you in the shop?

24 A. Pretty much every day over the last two years, yeah.

25 Q. Did you ever meet Tim Bradley or Francis Bradley?



Fcldvid4

Anderson - direct

1 A. Yes.

2 Q. How did you meet Tim Bradley?

3 A. Through Mark. I was there working pretty late one night  
4 trying to rush to get a project finished for a deadline and  
5 Mark was there pretty late also and Tim came by with another  
6 friend to see Mark.

7 Q. Do you recall who that other friend was?

8 A. Yeah. I think it was Tim's girlfriend.

9 Q. Do you have any other connection to Mr. Bradley?

10 A. I do, yeah. Tim's an old friend of my cousin. They went  
11 to high school together.

12 Q. Did you ever work with Mark on projects?

13 A. Yeah. It was last spring Mark was trying to get a lot of  
14 work done for one of the furniture fairs that they were doing,  
15 and he had a lot on his plate and the deadline was coming up.  
16 So after my full workday doing my own projects I stayed on one  
17 night to help him out, and I was working on a small walnut  
18 cabinet for them. It was for Vidivixi, and, yeah, I stayed  
19 pretty late that one night trying to push things along for  
20 them.

21 Q. When you say "Vidivixi," what do you mean by that?

22 A. Well, it was the furniture line that Mark and Tim were  
23 working on together to be exhibited at this fair, you know,  
24 under the brand Vidivixi instead of like just one or both of  
25 their names.

Fcldvid4

Anderson - direct

1 Q. And when did you first hear about Vidivixi?

2 A. I can't remember but pretty soon after I met Mark.

3 Q. And what did you understand Mark and Tim's relationship to  
4 be?

5 A. I understood it to be that they were both designing the  
6 projects but that Mark would be producing it and Tim would be  
7 sort of doing other aspects of the business and I think there  
8 was like some financial aspects and organizing aspects, you  
9 know, doing paperwork to get these fairs -- you know, to get  
10 the booths in the fairs and things like that.

11 Q. How often did you see Tim in the wood shop -- sorry,  
12 Mr. Bradley in the wood shop?

13 A. Maybe four times over the two years that I was there.

14 Q. And what did you see him doing in the wood shop?

15 A. You know, he would come by to like drop something off or  
16 they would talk about something or he was like organizing a  
17 pickup of, you know, of pieces that they were going to exhibit  
18 for a fair or something like that. Like the night that I was  
19 working late last spring or this past spring for these guys,  
20 Tim came by and they were talking about, you know, different  
21 details that still could be worked out. And he, you know, like  
22 went out and got us sandwiches at some point because we were  
23 working late and hadn't had dinner, and he paid me also for the  
24 work that I did.

25 Q. I see. Did you ever observe Tim designing any furniture or

Fcldvid4

Anderson - direct

1 fabricating any furniture?

2 A. No. I never saw Tim working in the shop like actually  
3 producing the stuff.

4 Q. Did you ever see Tim operate any machinery in the shop?

5 A. No.

6 Q. Do you know anybody by the name Anthony Bunda?

7 A. No.

8 Q. During the time that you were in the shop, how frequently  
9 would you say you and Mark talked about his work?

10 A. Oh, all the time. You know, it wasn't like every day but,  
11 yes, at least like a couple of times a week.

12 Q. What kinds of things did he talk about?

13 A. You know, we were talking about design elements and, you  
14 know, like what color something should be. I remember, yeah,  
15 in this -- in the lead up to that fair that I helped Mark  
16 produce stuff on, we talked a lot about different color options  
17 for pieces, and so that was something that was like Mark had a  
18 lot of uncertainty about. There was, you know, a lot of  
19 questions about whether it should be like this or should be  
20 like that. And we talked about it a lot and went through  
21 different iterations and we -- yeah, so it would happen one  
22 way. There would be like a certain color that it would be  
23 produced in and we would talk about whether it would look good  
24 or not and then it would change and things like that. These  
25 were the kinds of conversations that were really common between

Fcldvid4

Anderson - direct

1 Mark and I.

2 Q. Do you have any specific examples of like a color change on  
3 a piece or a design change?

4 A. Yes. Working that one case from the spring, they would  
5 like talk about making -- like bleaching the wood. It had been  
6 made of a dark colored wood and it was bleached and stained a  
7 bright pink, and that was like the first initial idea that Mark  
8 and Tim had worked out. And then to Mark it didn't seem right.  
9 And I took a look at it and I thought, yeah, like it just  
10 didn't look quite right. And I don't know if that's because,  
11 you know, the way it was done it could have looked good under  
12 circumstances but it just -- you know. So Mark decided to do  
13 it a different way in the end.

14 Q. Did you see Mark consult with Tim on changing that color?

15 A. I don't know. Maybe when he got there they talked about it  
16 that evening, but I don't know specifically.

17 Q. Did you ever see Mark consulting with Tim on design  
18 elements of pieces?

19 A. I don't know.

20 Q. What was your impression in general? Did Mark -- do you  
21 think, was he subcontracted? Did he have autonomy over designs  
22 or what?

23 A. Oh, yeah. He definitely was making autonomous decisions  
24 all the time. You know, it's like a situation where you may  
25 hash something out in a drawing or in a conversation about how

Fcldvid4

Anderson - direct

1 something should look but you start making it and you see what  
2 it actually looks like and then you decide, no, it could look  
3 better in one way or another, so you alter the actual product  
4 to look the way you want it to look. You know, like once you  
5 see it, then you realize it could look better in this other  
6 way. So Mark was constantly making design decisions in that  
7 way as pieces were being produced.

8 Q. You mentioned that you were at one point renting part of  
9 Mark's bay?

10 A. That's right, yeah.

11 Q. Did you ever hear or would you have heard who was paying  
12 the rent for Mark's bay?

13 A. No. I figured it was Mark doing that.

14 Q. Did you ever hear anybody say that Mark might be in danger  
15 of being kicked out of the wood shop?

16 THE COURT: Sustained. "Did you ever hear anybody  
17 say." I mean, there are --

18 MR. RAO: It has been a long day.

19 Q. Did you ever get the impression that Mark was in danger of  
20 being kicked out of the wood shop?

21 A. Yes.

22 Q. And when was that?

23 A. I couldn't say specifically but there was maybe one or two  
24 moments in the past -- in the past year or two that, yeah, that  
25 was an issue. I know because Walter, the guy who ran the shop,

Fcldvid4

Anderson - cross

1 would come and tell me that.

2 MR. RAO: No further questions.

3 THE COURT: Mr. Pek, you may examine.

4 CROSS-EXAMINATION

5 BY MR. PEK:

6 Q. Good afternoon. You just testified that Mark and Tim in  
7 your experience, or firsthand experience, both did design work,  
8 they both were designing. You later then testified that you  
9 never saw them discussing designing, and then testified that  
10 Mark was always doing the designing. So I'm just curious,  
11 which actually is it?

12 A. So specifically what I was saying, that my understanding  
13 was that Mark and Tim would sort of come up with like general  
14 design ideas, right. And I never saw them discussing designs.  
15 I wasn't listening to what they were saying, so I don't know  
16 what they were talking about when I saw them talking to each  
17 other.

18 And then lastly what I was saying is that like you may  
19 start with a design on a piece of paper, right, and it looks  
20 good on paper, but you start to put something into production  
21 and you realize it could look better this way or that way and  
22 so you just make new design decisions based on that experience.

23 Q. How is it that you know -- by seeing people talking, that  
24 you are able to know what it is they are talking about?

25 A. Well, that is the thing. I don't know what they are

Fcldvid4

Anderson - cross

1 talking about.

2 Q. Oh, OK. You were not a design major at Cooper Union?

3 A. No. I was a fine art and painting major.

4 Q. Fine art, OK.

5 THE COURT: Fine arts, painting?

6 THE WITNESS: Yes.

7 Q. You testified earlier that for somebody like yourself at  
8 Cooper Union with that major, it was not at all uncommon to be  
9 in the wood shop or to, how can I say, bridge the gap into  
10 woodworking?

11 A. Right. It was very common.

12 Q. It was very common?

13 A. Yeah. Because they had every art student take classes in  
14 woodworking. So you learned how to use all the machinery as an  
15 incoming freshman, and so a lot of friends I knew were making  
16 objects to paint on throughout the years that they were at  
17 school, which is what I did.

18 Q. So would it not surprise you to learn that, say, for  
19 instance, not at Cooper Union but at Pratt, somebody with a  
20 major such as yours in fine arts would, like yourself,  
21 ultimately make the move or endeavor into woodworking as well?

22 A. Yeah. That seems normal.

23 Q. Did you ever did you ever receive an email from Mark  
24 Grattan regarding Tim Bradley?

25 A. I don't know. I don't remember.

Fcldvid4

Anderson - cross

1 Q. Did you ever receive an email specifically referencing that  
2 Tim was on a rampage and that the police had been contacted?

3 A. No. I can't remember one.

4 Q. Have you ever -- withdrawn.

5 You mentioned that Tim paid you for some work in  
6 connection with Vidivixi, some woodwork?

7 A. Yes.

8 Q. And forgive me if I missed it, do you know what piece  
9 specifically or what piece of furniture that was to be applied  
10 to?

11 A. Yeah. Like I said, it was a small walnut cabinet with a  
12 door on it.

13 Q. And you also mentioned that you had some -- well, do you  
14 know Tim Bradley separate and apart from Mark?

15 A. I met Tim through Mark, but he, like I said, he's -- he  
16 also knows my sister. I mean, both Mark and Tim know my sister  
17 and her fiancé from their time at Pratt together, and,  
18 additionally, Tim went to high school with my cousin.

19 Q. And have you ever seen Anthony Bunda at the wood shop?

20 A. I know --

21 MR. RAO: Objection. Asked and answered.

22 THE COURT: Bunda, right?

23 MR. PEK: Bunda. Sorry.

24 THE COURT: Do you want to just rephrase?

25 Q. Have you ever seen -- do you know Anthony Bunda?



Fcldvid4

Anderson - cross

1 A. No.

2 Q. You mentioned earlier a number of different ways that you  
3 know, your sister's fiancée. Am I correct in my recollection  
4 that you earlier testified that through a cousin you know  
5 Anthony Bunda, or did I mishear that?

6 A. I don't know Anthony Bunda.

7 Q. OK. Sure.

8 THE COURT: You were talking about a cousin who  
9 knows --

10 THE WITNESS: Tim.

11 THE COURT: -- Mr. Bradley?

12 THE WITNESS: Mr. Bradley, yes.

13 MR. PEK: My mistake. Thank you for clarifying.

14 BY MR. PEK:

15 Q. You mentioned that you -- or withdrawn.

16 Have you ever heard of -- when was the first time that  
17 you've heard the word "Vidivixi"?

18 A. You know, sometime in the past. I'd say almost two years  
19 ago.

20 Q. And from whom? From Mark?

21 A. Yeah.

22 Q. And do you know what that word means, the significance of  
23 that word?

24 A. No.

25 Q. Do you understand that to be a business venture?

Fcldvid4

Anderson - cross

1 MR. RAO: Objection. Asked and answered.

2 THE COURT: Overruled.

3 A. Could you repeat the question?

4 Q. What is your understanding of Tim Bradley and Mark  
5 Grattan's relationship, if any?

6 A. I understood them to be business partners and friends.

7 Q. Did you ever witness any falling out of that friendship?

8 A. No.

9 Q. What are your usual hours at the wood shop?

10 A. You know, they varied. And I would get to the wood shop  
11 anywhere between 9:30 and 11:30 and stay through the evening  
12 until, let's say, like 7/7:30, 8/8:30.

13 Q. And how often -- how many days a week are you at the wood  
14 shop, roughly?

15 A. Five days a week.

16 Q. Five days a week.

17 And on a weekly basis, would you say you see Mark  
18 every day or every other day?

19 A. Every day.

20 Q. Every day?

21 A. Yeah.

22 Q. But you can't know about the weekends?

23 A. Right.

24 Q. Because you are not there.

25 And are you -- it is also your -- is it customary for

Fcldvid4

Anderson - cross

1 you to work very late hours?

2 A. I mean, you know, work until 8 was normal, yeah.

3 Q. I'm speaking of early morning hours rather than -- through  
4 the night.

5 A. No.

6 Q. Do you rent your own bay from Walter Goodman?

7 A. So I left that -- I left Walter's shop in August and  
8 started renting wood shop space in a different place in  
9 September.

10 Q. You mentioned Amy Benezra as being a colleague of yours, is  
11 that right?

12 A. Yes.

13 Q. Do you rent space where she rents space now?

14 A. Yes.

15 Q. Is that a joint decision?

16 A. Yes, it was.

17 Q. Based on what? Why did you both move?

18 A. So the rent was going up dramatically in Walter's wood shop  
19 space in Sunset Park and there was a lot of uncertainty about,  
20 you know, like what the spaces were going to be and what the  
21 timeframe for the leases were going to be. You know, he told  
22 me several different prices over the course of our discussions  
23 about continuing to rent space from him, and, you know, there  
24 was a lot of confusion about how long the leases would go and  
25 that kind of thing. And Amy went and found -- started looking

Fcldvid4

Anderson - cross

1 around for other wood shop spaces, and she found a space that's  
2 close to my apartment out in -- well, the space she found was  
3 in Ridgewood Queens. I live in Bushwick. It is about a  
4 15-minute walk away. So it was a nice prospect for me to move  
5 there, as opposed to Sunset Park which is a really long  
6 commute.

7 Q. Do you still keep in touch with Amy Benezra?

8 A. Yes, because we share space --

9 Q. You share space?

10 A. Yes.

11 Q. OK. And Mark Grattan as well?

12 A. No.

13 Q. Do you know -- withdrawn.

14 Is it right that since leaving you haven't spoken much  
15 with Mark?

16 A. Correct.

17 Q. Did you speak with Mark or his lawyer, Mr. Rao, before or  
18 in preparation for this hearing today?

19 A. Yeah. I talked to Mr. Rao about the logistics of the day,  
20 like what time to show up and that kind of thing.

21 Q. And everything else you've testified to here today is based  
22 on your own firsthand personal knowledge?

23 A. Yes.

24 MR. PEK: Thank you. No further questions.

25 THE COURT: All right. Nothing further. All right,

Fcldvid4

1 Mr. Anderson, you are excused. You may step down.

2 (Witness excused)

3 THE COURT: All right. We'll resume tomorrow morning  
4 at 9:15. 9:15. All right.

5 MR. PEK: Thank you, your Honor.

6 THE COURT: I would go later but I have some other  
7 conferences and I don't want to keep the other people waiting.

8 MR. RAO: Thank you, your Honor.

9 THE COURT: All right.

10 (Adjourned to 9:15 a.m., Wednesday, December 2, 2015)

## INDEX OF EXAMINATION

Examination of:	Page
-----------------	------

FRANCIS TIMOTHY BRADLEY

Direct By Mr. Pek . . . . .10

Cross By Mr. Rao . . . . .56

Redirect By Mr. Pek . . . . .89

ANTHONY PETER BUNDA

Direct By Mr. Pek . . . . .101

Cross By Mr. Rao . . . . .125

AMY BENEZRA

Direct By Mr. Rao . . . . .139

Cross By Mr. Pek . . . . .146

RICHARD WRIGHT

Direct By Mr. Rao . . . . .153

Cross By Mr. Pek . . . . .158

GRAHAM ANDERSON

Direct By Mr. Rao . . . . .166

Cross By Mr. Pek . . . . .174

## PLAINTIFF EXHIBITS

Exhibit No.	Received
-------------	----------

1 . . . . .52

## DEFENDANT EXHIBITS

Exhibit No.	Received
-------------	----------

A . . . . .70

R and S . . . . .74

1	C . . . . .	.76
2	E . . . . .	.86
3	AE . . . . .	.88
4		
5		
6		
7		
8		
9		
10		
11		
12		
13		
14		
15		
16		
17		
18		
19		
20		
21		
22		
23		
24		
25		